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Laws Relating to Insane Persons

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The Commonwealth of Massachusetts

THE MASSACHUSETTS LAWS

RELATING TO

INSANE PERSONS AND OTHER CLASSES UNDER THE SUPERVISION OF THE DEPARTMENT OF MENTAL DISEASES

AS CONSOLIDATED AND ARRANGED JANUARY, 1921, TOGETHER WITH ADDITIONAL LAWS TO JANUARY 1, 1922

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Massachusetts. Laws, statutes, etc. Insanity law

The Commonwealth of Massachusetts

THE MASSACHUSETTS LAWS

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A joint special committee was appointed to consolidate and arrange the General Laws of the Commonwealth. Their report was accepted, and the General Laws in accordance therewith became effective January 1, 1921.

Forms prescribed for admission may be obtained at the office of the Department of Mental Diseases, Room 109, State House, Boston, Mass.

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GENERAL LAWS

RELATING TO

INSANE PERSONS AND OTHER CLASSES UNDER THE SUPERVISION OF THE DEPARTMENT OF MENTAL DISEASES.

Chapter 19, General Laws.

DEPARTMENT OF MENTAL DISEASES.

SECT.
1. Department of mental diseases.
2. Commissioner.
3. Associate commissioners.
4. Commissioner. Certain duties. Assistant commissioner, etc.
5. Public institutions in the department.
6. Boards of trustees of public institutions.

Department of mental diseases. 1898, 433, § 1. R. L. 87, § 1. 1909, 504, §§ 2, 107. 1914, 762, §§ 1, 9.

SECTION 1. There shall be a department of mental diseases, consisting of the commissioner of mental diseases and four associate commissioners. The commissioner and at least two associate commissioners shall be physicians and experts in the care and treatment of the insane. 1916, 285, §§ 1, 2. 1919, 350, § 79.

Commissioner. 1898, 433, §§ 1, 2. R. L. 87, §§ 1, 2. 1909, 504, §§ 2, 3, 107. 1914, 762, §§ 1, 9. 1916, 285, §§ 1, 2. 1919, 350, § 79.

SECTION 2. Upon the expiration of the term of office of a commissioner, his successor shall be appointed for five years by the governor, with the advice and consent of the council. The commissioner shall receive such salary, not exceeding seventy-five hundred dollars, as the governor and council determine, and shall be reimbursed for expenses necessarily incurred in the performance of his duties.

Associate commissioners. 1898, 433, § 1. R. L. 87, § 1. 1909, 504, §§ 2, 107. 1914, 762, §§ 1, 9. 1916, 285, §§ 1, 2.

SECTION 3. Upon the expiration of the term of office of an associate commissioner, his successor shall be appointed for four years by the governor, with the advice and consent of the council. The associate commissioners shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties. 1919, 350, § 79.

Commissioner. Certain duties. Assistant commissioner, etc.

SECTION 4. The commissioner shall be the executive and administrative head of the department and may organize therein such divisions as he may determine.

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1879, 291, §§ 3, 7. P. S. 79, §§ 2, 3. 1898, 433, §§ 2, 3. R. L. 87, §§ 2, 3. 1909, 504, §§ 3, 4, 107. 1914, 762, §§ 1, 3, 9. 1916, 285, §§ 4, 8. 1919, 350, § 80. 2 Op. A. G. 194. 4 Op. A. G. 74.

He may, with the approval of the governor and council, appoint and fix the compensation of an assistant commissioner, who shall discharge the duties of the commissioner during his absence or disability and perform such other duties as the commissioner may prescribe. The commissioner shall appoint and may remove such agents and subordinate officers as the department may deem necessary, and shall fix their compensation. Physicians, pathologists, and psychiatrists shall be exempt from chapter thirty-one.

Public institutions in the department. 1862, 223, § 1. 1877, 252, § 1. P. S. 87, § 2. 1884, 322, § 1. 1892, 425, § 1. 1895, 483, § 1. 1900, 451, § 5. R. L. 87, §§ 13, 16. 1905, 400. 1906, 313; 508. 1907, 421. 1908, 613, § 2. 1909, 504, §§ 14, 107.

SECTION 5. The boards of trustees of the following public institutions shall serve in the department: Boston Psychopathic Hospital, Boston State Hospital, Danvers State Hospital, Foxborough State Hospital, Gardner State Colony, Grafton State Hospital, Massachusetts School for the Feeble-minded, Medfield State Hospital, Monson State Hospital, Norfolk State Hospital, Northampton State Hospital, Taunton State Hospital, Westborough State Hospital, Worcester State Hospital and Wrentham State School.

1914, 358; 442, §§ 1–3. 1915, 79, §§ 1–3. 1919, 350, § 81. 1920, 537.

Boards of trustees of public institutions. 1832, 163, §§ 1, 8. 1834, 150, §§ 1, 4. 1835, 4. R. S. 48, §§ 1, 2, 17. 1851, Res. 44. 1853, 318, § 1. 1856, 247, §§ 1, 3. 1859, 177, § 3. G. S. 73, §§ 1, 3. 1877, 252, § 1. 1878, 126, § 2. 1879, 291, § 7. P. S. 79, § 3; 87, §§ 4, 6, 55, 56. 1883, 239, § 1. 1884, 149; 322, §§ 3, 5. 1889, 414, §§ 1, 15. 1892, 425, §§ 1, 4. 1893, 256. 1895, 483, §§ 2, 7. 1900, 451, §§ 4, 6.

SECTION 6. The board of trustees for each of the institutions mentioned in the preceding section, except the Massachusetts School for the Feeble-minded, shall consist of seven members, five men and two women; provided, that the board of trustees of the Norfolk State Hospital shall consist of seven men. One member of each board, except as aforesaid, shall annually in January be appointed for seven years from the first Wednesday of the following February by the governor, with the advice and consent of the council. The board of trustees of the Massachusetts School for the Feeble-minded shall consist of six members on the part of the commonwealth, one of whom shall annually be appointed for six years by the governor, with the advice and consent of the council, and of six members to be elected by the school, subject to the approval of the governor and council. All the above trustees shall serve without compensation, but shall be reimbursed for all expenses incurred in the performance of their duties.

R. L. 87, §§ 14, 18–22, 26, 113, 114. 1902, 542. 1906, 508, §§ 1, 2. 1908, 613, § 2. 1909, 504, §§ 15, 17, 59, 60, 107. 1914, 358. 1915, 79, § 4. 1918, Sp. 119. 1919, 350, § 81. 1920, 537, § 2.

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Chapter 123, General Laws.

COMMITMENT AND CARE OF THE INSANE AND OTHER MENTAL DEFECTIVES.

SECT.

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1. Definitions.
2. Care of the insane, feeble-minded, epileptic, etc.

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3. Department, scope of supervisory authority.
4. Department, commissioner to be executive head.
5. Department, may investigate sanity of inmates of institutions.
6. Department to hold land in trust.
7. Management of state hospitals by department.
8. Department, duties relative to new construction.
9. Department, and trustees, semi-annual meetings.
10. Department to establish hospital districts.
11. Department to encourage scientific investigations, reports, etc.
12. Department may establish free clinics for feeble-minded.
13. Department may establish registry of feeble-minded, etc.
14. Department shall visit institutions.
15. Annual report.
16. Boarding out of insane persons by department and by trustees.
17. Persons boarded out. Bills for board, how paid.
18. Removal of neglected boarders; temporary release.
19. Agents to visit persons boarded in families.
20. Department, general power to transfer.
21. Transfers from private institutions and of voluntary patients.
22. Care, etc., of insane at state infirmary by department.
23. Department to apply for commitment, when.
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31. Visits to persons boarded out.
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37. Restraint, records of, etc. Definition.
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44. Norfolk state hospital.
45. Massachusetts school for the feeble-minded, and Wrentham state school, departments of.
46. Same. Reception and classification of pupils in.
47. Same. Voluntary admission of certain feeble-minded persons.

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52. Commitment, additional medical testimony. Fee.
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69. Commitment of insane epileptics.
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75. Commitment, judge to keep docket, etc.
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SECT.
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93. Discharge, if not insane or dangerous.
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103. Insane prisoners, removal to state hospital.
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115. Certificate of mental defectiveness to be filed in certain cases.
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117. Departments for defective delinquents may be established, etc.
118. Parole, etc.
119. Parole and discharge by court.
120. Powers of special justices of courts in certain cases.
121. Records of proceedings of commitments.
122. Commitments of defective delinquents, how made.
123. Expenses of commitment, etc.
124. Time of taking effect of certain provisions.

GENERAL PROVISIONS.

SECTION 1. The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings: Definitions.

"Commissioner", commissioner of mental diseases.

"Department", department of mental diseases.

"Institution", hospital or other institution, public or private, under the general supervision of the department.

"Judge", judge or justice.

"Residence", residence or place where found.

"State hospital", state hospital, state school, state colony or other state institution under the control of the department.

"State", state, territory, or dependency of the United States.

SECTION 2. The commonwealth shall have the care, control and treatment of all insane, feeble-minded and epileptic persons, and of persons addicted to the intemperate use of narcotics or stimulants, the care of whom is vested in it by law, and of each person who shall hereafter be received into any state hospital. No county, city or town shall establish or maintain any institution for the care, control and treatment of insane, feeble-minded or epileptic persons, or of persons addicted to the intemperate use of narcotics or stimulants, or be liable for the board, care, treatment or act of any inmate thereof. Care of the insane, feeble-minded, epileptic, etc. 1884, 234, §§ 1, 2. 1892, 243. 1895, 375. 1898, 196; 433, § 9. 1899, 156. 1900, 451, §§ 1, 2, 6. R. L. 87, §§ 6, 81, 109. 1903, 321. 1905, 282. 1908, 613; 629.

1909, 504, §§ 1, 107. 1 Op. A. G. 50.

SECTION 3. The department shall have general supervision of all public and private institutions for insane, feeble-minded or epileptic persons, or for persons addicted Department, scope of supervisory authority. 1898, 433, § 9.

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1900, 451, §§ 1, 2, 6. R. L. 87, § 6. 1909, 504, §§ 7, 107. 1914, 762, §§ 2, 9. 1916, 285, § 3. 1918, 121. 1919, 350, § 81. 194 Mass. 486. 4 Op. A. G. 79.

to the intemperate use of narcotics or stimulants, and shall have charge of all such persons the care of whom is vested in the commonwealth by law, and supervision of all other persons received into any of said institutions. It shall supervise and control any institution placed under it by the governor with the advice and consent of the council, and when so directed by the governor it shall assume and exercise the powers of the trustees of any state hospital in any matter relative to the conduct or management thereof. It shall have the same powers relative to state charges in institutions under its supervision, and to their property, as is vested in towns and overseers of the poor in the matter of the support and relief of paupers.

Department, commissioner to be executive head. 1879, 291, §§ 3, 7. P. S. 79, §§ 2, 3.

SECTION 4. The commissioner shall administer the laws relative to persons in institutions under the general supervision of the department and shall prepare rules and regulations for the consideration of the department.

1898, 433, §§ 2, 3. R. L. 87, §§ 2, 3. 1909, 504, §§ 3, 4, 107. 1914, 762, §§ 1, 9. 1916, 285, § 4.

Department may investigate sanity of inmates of institutions. 1879, 291, § 5. P. S. 87, § 1. 1886, 101, § 4. 1898, 433, § 13. R. L. 87, § 8. 1909, 504, §§ 9, 107. 232 Mass. 500.

SECTION 5. The department shall act as commissioners of insanity, with power to investigate the question of the insanity and condition of any person who is an inmate of any institution for the insane, public or private, or restrained of his liberty by reason of alleged insanity at any place within the commonwealth, and shall discharge any such person, if in its opinion he is not insane or can be cared for after such discharge without danger to others and with benefit to himself. All questions as to the sanity of inmates of the penal, reformatory and other institutions of the commonwealth who present indications of insanity shall be referred to and determined by the department, except as otherwise provided by law.

Department to hold land in trust. 1910, 583, § 1.

SECTION 6. The department shall be a corporation for the purpose of taking, holding and administering in trust for the commonwealth any grant, devise, gift or bequest made either to the commonwealth or to it, for the use of persons under its control in any state hospital.

Management of state hospitals by department. 1832, 163, § 1. 1834, 150, § 1. R. S. 48, § 3. G. S. 73, § 4. P. S. 87, §7. 1884, 322, §§ 5, 6. 1889, 414, § 5. 1890, 378, § 3.

SECTION 7. The department shall provide for the efficient, economical and humane management of the state hospitals. It shall establish by-laws and regulations, with suitable penalties, for the government of said hospitals, shall determine the salaries of the officers and employees thereof, and shall provide for a monthly inspection and trial of fire apparatus belonging thereto, and for the

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proper organization and monthly drill of the officers and employees in use of the apparatus. It shall ascertain by actual examination and inquiry whether commitments to the state hospitals are made according to law.

1892, 425, § 4. 1895, 483, §§ 4, 6. R. L. 87, §§ 15, 27. 1906, 508, §§ 2, 6.

1909, 504, §§ 18, 107. 1914, 762, §§ 6, 9. 1915, 241, § 1.

Department, duties relative to new construction. 1898, 433, § 10. R. L. 87, § 7. 1906, 508, § 10. 1907, 520. 1909, 504, §§ 8, 107. 1914, 762, §§ 5, 9.

SECTION 8. The department, subject to the approval of the governor and council, shall select the site of any new state hospital and any land to be taken or purchased by the commonwealth for the purposes of any new or existing state hospital. It shall have charge of the construction of any new building at any such state hospital, shall determine the design thereof, and for this purpose may employ architects and other experts or hold competitions for plans and designs. If any land or property is taken or purchased by the department, title shall be taken in the name of the commonwealth.

Department, semi-annual meetings of, and trustees. 1898, 433, § 20.

SECTION 9. The department and the trustees of the state hospitals, or their representatives, shall meet semi-annually for consultation and to promote harmonious action. R. L. 87, § 11. 1909, 504, §§ 13, 107.

Department to establish hospital districts. 1887, 346, §§ 1, 2. 1896, 482. 1897, 451, § 3. 1898, 433, § 28. R. L. 87, §§ 31, 32. 1909, 504, §§ 28, 107. 1919, 49, § 1.

SECTION 10. The department shall divide the commonwealth into districts, may change the districts from time to time, and shall designate the state hospitals to which insane, epileptic and feeble-minded persons and persons addicted to the intemperate use of narcotics and stimulants from each district shall be committed. All such persons within such district shall be committed to the state hospitals designated for the district; except that persons from any district may be committed to the Westborough state hospital under section fifty-six, or to any state hospital when the expense of their support is paid by themselves or friends or upon the written approval of the department, or to the McLean hospital, or to any licensed private institution.

Department to encourage scientific investigations, reports, etc. 1898, 433, §§ 5, 6. R. L. 87, § 5. 1909, 504, §§ 6, 107.

SECTION 11. The department shall encourage scientific investigation by the medical staffs of the various institutions, shall publish from time to time bulletins and reports of the scientific and clinical work done therein, and shall prescribe to the superintendents or managers of the several institutions the forms of, and periods covered by, the statistical returns to be made by them in their annual reports.

Department may establish free clinics for feeble-minded. 1919, 318, § 1.

SECTION 12. The department may establish and maintain free clinics for the feeble-minded in the districts established under section ten, which shall be in charge of

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physicians of the state schools for the feeble-minded, or of such other physicians skilled in the care and treatment of the feeble-minded as may be designated by it. It may also employ such persons as may be required properly to conduct the said clinics.

Department may establish registry of feeble-minded, etc. 1919, 318, § 2.

SECTION 13. The department shall establish and maintain a registry of the feeble-minded, and may report therefrom such statistical information as it deems proper; but the name of any person so registered shall not be made public except to public officials or other persons having authority over the person so registered, and the records constituting the registry shall not be open to public inspection.

Department shall visit institutions. 1898, 433, § 14. R. L. 87, § 9. 1909, 504, §§ 10, 107. 1914, 762, §§ 2, 9. 1916, 285, § 5. 4 Op. A. G. 79.

SECTION 14. The department shall visit each institution at least once a year, and oftener if the governor so directs. It shall ascertain by actual examination and inquiry whether the laws relating to the persons in custody or control therein are properly observed, shall give such directions as will insure correctness in the returns required in respect to such persons, and may use all necessary means to collect all desired information. It shall carefully inspect every part of the institution visited with reference to its cleanliness and sanitary condition, the number of patients in seclusion or restraint, the dietary of the patients and any other matters which it considers material, and shall offer to every patient an opportunity for an interview with its visiting members or agents.

Annual report. 1832, 163, § 2. 1834, 150, § 2. R. S. 48, § 5. 1852, 269, § 1. 1853, 318, § 1. 1856, 247, § 3. 1857, 40, § 1. 1859, 177, § 2. G. S. 73, § 6. 1879, 291, § 7. P. S. 79, § 3; 87, § 9. 1884, 322, § 5. 1887, 170. 1889, 414, § 18. 1892, 425, § 4. 1895, 483, § 6. 1898, 433, §§ 3–5. R. L. 87, §§ 3, 4, 29. 1906, 184; 508, § 3.

SECTION 15. The commissioner shall make an annual report containing an accurate account of the receipts and expenditures for each separate state hospital, an inventory of the property thereof on November thirtieth, and a statement of the market value of any products of such state hospital, and of the labor, if any, performed by the inmates thereof. It may also contain information embodying the experience of this and other countries relative to the best and most successful methods of caring for such persons as come under the supervision of the department.

The commissioner shall also make an annual report relative to the condition and needs of each state hospital.

1909, 504, §§ 4, 5, 20, 107.
1914, 762, §§ 3, 8, 9.
1915, 241, § 2.
1918, 257, § 308.
1919, 5; 350, § 8.
1920, 2.

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Boarding out of insane persons by department and by trustees. 1885, 385, § 1. 1886, 101, § 4. 1898, 433, §§ 24, 28. R. L. 87, § 102. 1903, 400. 1905, 458, § 1. 1909, 504, §§ 71, 107. 1914, 493. Amended. See Chapter 317, Acts of 1921.

SECTION 16. The department may place at board in a suitable family or in a place in this commonwealth or elsewhere any patient in an institution who is in the charge of the department and is quiet and not dangerous nor committed as a dipsomaniac or inebriate, nor addicted to the intemperate use of narcotics or stimulants. Any such patient in a state hospital may so be placed at board by the trustees thereof, and such boarder shall be deemed to be an inmate of the state hospital. The cost to the commonwealth of the board of such patients supported at the public expense shall not exceed three dollars and seventy-five cents a week for each patient.

Persons boarded out. Bills for board, how paid. 1885, 385, § 2. R. L. 87, § 103. 1905, 458, § 2. 1909, 504, §§ 72, 107.

SECTION 17. The bills for the support of persons who are placed at board in families by the department shall be payable monthly by the commonwealth and shall be audited by said department, which shall, at the end of each month, present to the state auditor a schedule of all such bills incurred, and shall keep a register in such form that the state auditor shall be able to verify the schedule.

Removal of neglected boarders; temporary release. 1885, 385, § 4. R. L. 87, § 105. 1905, 458, § 4. 1909, 504, §§ 74, 107.

SECTION 18. The department shall cause to be removed to an institution used wholly or in part for the care of the insane or to a better boarding place all persons who, upon visitation, are found to be abused, neglected or improperly cared for when placed at board in families. It may permit any boarder temporarily to leave custody as an insane person in charge of his guardian, relatives, friends or by himself, for a period not exceeding one year, and may receive him again into such custody when returned by such guardian, relatives, friends or upon his own application, within such period, without any further order of commitment, and may during such temporary absence assist in his maintenance to an amount not exceeding three dollars and twenty-five cents a week.

Agents to visit persons boarded in families. 1885, 385, § 3. 1886, 101, § 4. 1898, 433, § 27. R. L. 87, § 104. 1905, 458, § 3.

SECTION 19. The department shall cause all persons placed at board by it in families at public expense to be visited at least once in three months, and shall cause all persons placed at board in families at public expense by the trustees of any state hospital to be visited once in six months, by an agent of the department.

1909, 504, §§ 73, 107.

Department, general power to transfer. 1859, 255. G. S. 71, § 7. 1863, 240, § 4. 1879, 291, § 3.

SECTION 20. The department, subject to the following section, may transfer to and from any institution any inmate thereof who, in its opinion, is a proper subject for admission to the institution to which he is to be trans-

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1880, 250, § 4. P. S. 79, §§ 9, 13. 1886, 298, § 10. 1887, 367. 1889, 414, § 16. 1891, 158, § 2. 1894, 196; 251, § 1. 1895, 390, §§ 5, 6; 483, §§ 9, 11. 1897, 418. 1898, 433, §§ 11, 16, 21, 28. 1899, 158. 1900, 451, § 8. R. L. 85, §§ 42, 43; 86, § 46; 87, §§ 58, 66, 87–89, 92, 123. 1905, 400. 1906, 352; 508, § 8. 1907, 432. 1909, 504, §§ 69, 107. 1911, 334. 1917, 131. 1 Op. A. G. 322, 490, 528. Amended. See Chapter 317, Acts of 1921.

ferred; but no such inmate shall be transferred to be detained as an insane person unless he has been duly committed as insane by a judge or court, and no person shall be so transferred to the Bridgewater state hospital unless he has been a criminal and vicious in his life. A record of such transfer shall be entered in the registers of the institutions to and from which he is transferred. The commitment papers, together with an abstract of his hospital case record, shall be transmitted with him to the institution to which he is transferred. The department, subject to section eighteen of chapter one hundred and twenty, may transfer persons from the Massachusetts training schools to the hospital cottages for children or to the Massachusetts school for the feeble-minded. The department may also remove any state charge in any state hospital to any country, state or place where he belongs, and may enter into an agreement with the corresponding board or commission of any other state for the transfer of any state charge or indigent insane person from one state to the other where, after a full investigation of all the facts, he may be deemed equitably to belong; but no such person shall be removed outside this commonwealth if he is subject to the orders of a court of this commonwealth. In making such transfers and removals the department, so far as practicable, shall employ nurses or attendants instead of officers of the law, and shall employ female nurses or attendants to accompany female patients.

Transfers from private institutions and of voluntary patients. 1881, 183. P. S. 79, § 13. 1894, 196. 1898, 433, § 12. R. L. 87, § 90.

SECTION 21. The department shall not transfer any person to or from a private institution except upon the application of the superintendent or manager of such institution and of the legal or natural guardian of such person, nor transfer any voluntary inmate of any institution, except with his written consent.

1909, 504, §§ 70, 107. 1 Op. A. G. 67.

Care, etc., of insane at state infirmary by department. 1904, 278, § 1. 1909, 504, § 98. 1911, 104.

SECTION 22. The department shall have the same authority with regard to the transfer of insane inmates of the wards of the state infirmary now or hereafter used for the care of the insane, which it has over the transfer of inmates of state hospitals, under section twenty; but the said wards shall remain under the jurisdiction of the trustees of the state infirmary and the control of its superintendent.

Department to apply for commitment, when. 1864, 288, § 7.

SECTION 23. If the department has reason to believe that an insane, epileptic or feeble-minded person who is a proper subject for treatment or custody in an institution,

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is confined in an almshouse or other place at the public charge or otherwise, it shall cause application to be made to a judge for the commitment of such person to an institution. 1909, 504, §§ 12, 107.

P. S. 87, § 25. 1890, 414, § 1. 1898, 433, § 14. R. L. 87, § 51.

SECTION 24. The department shall prescribe the forms of application, medical certificate and order of commitment required by law in the commitment and admission of all persons to the institutions under its supervision, which shall be the only forms used in such commitments and admissions. It shall keep records of all such commitments and admissions and shall secure compliance with the laws relative thereto, and shall investigate the propriety of any commitment or admission, notice whereof is received under any provision of sections three to one hundred and twelve, inclusive.

Department to prescribe forms. 1895, 286, § 2. 1898, 433, §§ 8, 17, 19. R. L. 87, §§ 36–38. 1909, 504, §§ 11, 107.

LIST OF STATE HOSPITALS.

SECTION 25. The state institutions under the control of the department shall be Worcester state hospital, Taunton state hospital, Northampton state hospital, Danvers state hospital, Grafton state hospital, Westborough state hospital, Foxborough state hospital, Medfield state hospital, Monson state hospital, Gardner state colony, Wrentham state school, Boston state hospital, Norfolk state hospital, Massachusetts school for the feeble-minded, Boston psychopathic hospital, and such others as may hereafter be added by authority of law.

List of state hospitals. 1830, Res. 133. 1839, 131. 1851, 251; Res. 44. 1855, 454. 1861, Res. 26. 1862, 223, § 1. 1870, 238. 1873, 239. 1874, Res. 18. 1877, 227; 252, § 1. 1878, 216, § 2. P. S. 87, §§ 2, 56.

1884, 322, §§ 1, 3.
1886, 298, § 4.
1889, 414, § 1.
1892, 425, § 1.
1895, 483, §§ 1, 2.
1900, 451, § 5.
R. L. 87, §§ 13, 16, 19–22, 114.
1905, 400.
1906, 313; 508.
1907, 421.
1908, 613, § 2.
1909, 504, §§ 14, 60, 107.
1910, 635.
1912, 530; 679.
1914, 358; 442, § 3; 456.
1915, 68; 79, § 3; 170.
1916, 283.
1917, 115.
1918, 139, § 2; Sp. 119.
1919, 74; 350, § 81.
1920, 537, § 1.

POWERS AND DUTIES OF TRUSTEES, ETC., OF STATE HOSPITALS.

SECTION 26. The trustees of each state hospital shall have charge of the general interests thereof, and shall see that its affairs are conducted according to law and to the by-laws and regulations established by them.

Supervision of state hospitals. 1832, 163, § 1. 1834, 150, § 1. R. S. 48, § 2. G. S. 73, § 3.

P. S. 87, § 6.
1884, 322, § 5.
1889, 414, § 5.
1892, 425, § 4.
1895, 483, § 6.
1900, 451, §§ 4, 6.
R. L. 87, §§ 15, 26.
1906, 508, § 2.
1909, 504, §§ 17, 107.
1914, 762, § 8, cl. b, § 9.
1915, 241, § 2, cl. b.
1920, 537, § 2.
Mass. 227, 88.

SECTION 27. The trustees of each state hospital shall be a corporation for the purpose of taking and holding,

Trustees, certain powers and duties of. 1832, 163, § 9.

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1834, 150, § 10.
R. S. 48, § 4.
1842, 96.
G. S. 73, § 2.
P. S. 87, § 5.
1884, 322, § 4.
1889, 414, § 3.
1892, 425, § 4.
1895, 483, § 3.
1900, 451, §§ 4, 5.
R. L. 87, §§ 15, 23, 24.
1906, 508, § 4.
1909, 504, §§ 16, 107.
1920, 537, § 2.

by them and their successors, in trust for the commonwealth, any grant or devise of land, and any gift or bequest of money or other personal property, made for the use of the state hospital of which they are trustees, and for the purpose of preserving and investing the proceeds thereof in notes or bonds secured by good and sufficient mortgages or other securities, with all the powers necessary to carry said purposes into effect. They may expend any unrestricted gift or bequest, or part thereof, in the erection or alteration of buildings on land belonging to the state hospital, subject to the approval of the department, but all such buildings shall belong to the state hospital and be managed as a part thereof.

Trustees to appoint superintendent and treasurer.
1832, 163, § 1.
1834, 150, § 1.
R. S. 48, § 3.
G. S. 73, § 4.
P. S. 87, § 7.
1884, 116; 322, §§ 5, 6.
1889, 414, § 5.
1892, 425, § 4.
1895, 483, § 4.
1900, 451, §§ 4, 6.
R. L. 87, §§ 15, 27.
1906, 508, § 2.
1909, 504, §§ 18, 107.
1914, 762, §§ 6, 9.

SECTION 28. The trustees of each state hospital, with the approval of the department, shall appoint and may remove from such state hospital:

(*a*) A superintendent, who shall be a physician and shall reside at the state hospital. With the approval of the trustees he shall appoint and may remove assistant physicians and necessary subordinate officers and other persons. In state hospitals receiving female patients and employing more than two assistant physicians one of them shall be a woman.

(*b*) A treasurer, who shall give bond for the faithful performance of his duties.

1915, 241, § 1. 1918, 239. 1920, 537, § 2.

Trustees, additional powers and duties of.
1832, 163, § 1.
1834, 150, § 1.
R. S. 48, § 2.
G. S. 73, § 3.
P. S. 87, § 6.
1884, 322, § 5.
1889, 414, § 5.
1892, 425, § 4.
1895, 483, § 6.
1900, 45, §§ 4, 6.
R. L. 87, §§ 15, 26.
1906, 508, § 2.
1909, 504, §§ 17, 107.

SECTION 29. The trustees of each state hospital shall have the following powers and duties in addition to any other powers given and duties imposed by this chapter:

(*a*) Except as otherwise provided in this chapter, they shall retain all powers and duties now conferred or imposed upon them by law, and shall maintain an effective and proper inspection of their respective state hospitals, and shall from time to time make suggestions to the department as to improvements therein, especially such as will make the administration thereof more effective, economical and humane. 1914, 762, §§ 8, 9. 1915, 241, § 2. 1918, 121. 1919, 350, § 81. 1920, 537, § 2.

1832, 163, § 2.
1834, 150, § 2.
R. S. 48, § 5.
1853, 318, § 1.
1856, 247, § 2.
G. S. 73, § 6.
P. S. 87, § 9.
1884, 322, § 5.
1887, 170.

(*b*) There shall be thorough visitations of each state hospital by at least two of the trustees each month. Every trustee shall visit his state hospital at least semi-annually, and a majority of the trustees of each state hospital shall visit it at least quarterly. Reports of the

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visits shall be transmitted to the department whenever matters are observed which need its attention. 1889, 414, § 18. 1892, 425, § 4. 1895, 483, § 6.

1900, 451, §§ 4, 6. R. L. 87, §§ 15, 29. 1906, 508, § 3. 1909, 504, §§ 20, 107. 1914, 762, §§ 8, 9. 1915, 241, § 2.

(*c*) They shall carefully inspect every part of the state hospital, either as a board or by committees, with reference to cleanliness and sanitary condition, the number of persons in seclusion or restraint, dietary matters, and any other matters which merit observation.

(*d*) Upon request of the department, the trustees shall investigate any sudden death and any accident or injury, whether self-inflicted or otherwise, and send a report of the same to the department.

(*e*) All trustees shall have free access to all books, records and accounts pertaining to their respective state hospitals, and shall be admitted at all times to the buildings and premises thereof. 1852, 269, § 2. G. S. 73, § 7. P. S. 87, § 10. 1889, 414, § 19. R. L. 87, § 30. 1906, 508, § 3.

1909, 504, §§ 22, 107. 1914, 762, §§ 8, 9. 1915, 241, § 2.

(*f*) They shall keep a record of their doings, and shall record their visits to the state hospital in a book kept there for that purpose. They shall transmit promptly to the department a copy of the proceedings of each meeting.

(*g*) They shall personally hear and investigate the complaints and requests of any inmate, officer or employee of the state hospital. If they deem any such matter of sufficient importance, after determining what, if anything, should be done relative thereto, they shall make written report of their determination to the department.

(*h*) They may at any time cause the superintendent or any officer or employee of the state hospital to appear before them and answer any questions or produce any books or documents relative to the state hospital.

(*i*) They shall consider every proposed taking or purchase of land for the state hospital, the site of every new building and all plans and specifications for the construction or substantial alteration of buildings, the grading of grounds and other substantial improvements, and shall report thereon to the department within such reasonable time as it shall fix. No such taking, purchase, construction or substantial alteration or improvement shall be made until it has been submitted to the trustees and until they have reported thereon, or until the time fixed by the department for their report has expired. 1898, 433, § 10. R. L. 87, § 7. 1906, 508, § 10. 1907, 520. 1909, 504, §§ 8, 107. 1914, 662; 762, §§ 8, 9. 1915, 241, § 2.

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Instruction of patients.
1911, 649.
1917, 50.
1920, 537, § 2.

SECTION 30. The trustees of each state hospital shall cause to be given to the nurses, attendants and patients thereof instruction in such arts, crafts, manual training, kindergarten and other branches and lines of occupation as may be appropriate for the patients to undertake, especially such patients as are physically unfit to perform the usual work in or about the hospitals.

Visits to persons boarded out.
1905, 458, § 3.
1909, 504, §§ 73, 107.
1920, 537, § 2.

SECTION 31. The trustees of each state hospital shall cause all persons who are placed at board by them in families at public expense to be visited at least once in three months, and shall inform the department of the location of every person so placed at board.

Supervision of accounts by trustees.
1901, 303, § 1.
R. L. 87, § 127.
1905, 175, § 1.
1909, 504, §§ 95, 107.
1920, 537, § 2.

SECTION 32. All accounts for the maintenance of each of the state hospitals shall be approved by the trustees thereof and filed with the state auditor, and shall be paid by the commonwealth. Full copies of the pay rolls and bills shall be kept at each hospital.

PRIVATE HOSPITALS, ETC.

Private institutions to be licensed.
1864, 288, § 8.
P. S. 87, § 53.
R. L. 87, § 111.
1909, 504, §§ 24, 107.
1914, 762, §§ 7, 9.
1916, 285, §§ 6, 8.
1917, 232, § 1.
1 Op. A. G. 283.
3 Op. A. G. 359, 563.

SECTION 33. The department may annually license any suitable person to establish or have charge of an institution for the care and treatment of the insane, epileptic, feeble-minded, and persons addicted to the intemperate use of narcotics or stimulants, and may at any time revoke the license. No such license shall be granted for the care and treatment of insane or epileptic persons unless the said department is satisfied, after investigation, that the person applying therefor is a duly qualified physician, as provided in section fifty-three, and has had practical experience in the care and treatment of such patients. No such license shall be granted for the care and treatment of persons addicted to the intemperate use of narcotics or stimulants unless the department is satisfied, after investigation, that the person applying therefor is a physician who is a graduate of a legally chartered medical school or college, and that he has been in the actual practice of medicine for the three years next preceding his application for a license; nor unless his standing, character and professional knowledge of inebriety are satisfactory to the department. Licenses granted hereunder shall expire with the last day of the year in which they are issued, but may be renewed. The department may fix reasonable fees for said licenses and renewals thereof.

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SECTION 34. Whoever keeps or maintains an institution described in the preceding section, unless the same is in charge of, and under the direct personal supervision of, a person duly licensed as provided therein, shall be punished by a fine of not more than five hundred dollars.

Private institutions unlicensed. Penalty. 1864, 288, § 9. P. S. 87, § 54. R. L. 87, § 112. 1909, 504, §§ 25, 107.

1914, 762, §§ 7, 9. 1916, 285, §§ 7, 8. 1917, 232, § 2.

RESTRAINT.

SECTION 35. No restraint in the form of muffs or mitts with lock buckles or waist straps, wristlets, anklets or camisoles, head straps, protection sheets or simple sheets when used for restraint, or other device interfering with free movement, shall be imposed upon any patient in any institution unless applied in the presence of the superintendent, or of the physician or of an assistant physician of the institution, or on his written order, which order shall be preserved in the files or records of the institution. Such devices shall be applied only in cases of extreme violence, active homicidal or suicidal condition, physical exhaustion, infectious disease, or following an operation or accident which has caused serious bodily injury, except that in cases of emergency restraint may be imposed without the presence of the superintendent, physician or assistant physician, and without a written order; but every such emergency case, after the imposition of such restraint, shall immediately be reported to the superintendent or to the physician or assistant physician of the institution, who shall immediately investigate the case, and approve or disapprove the restraint imposed.

Restraint regulated. 1911, 589, § 1.

SECTION 36. The superintendent or head physician of each institution, or in his absence one of the assistant physicians, shall personally keep under lock and key all implements or devices of restraint not in actual use.

Restraint, custody of implements. 1911, 589, § 3.

SECTION 37. The superintendent or head physician of each institution shall cause records of all restraint to be kept in a book provided for that purpose. The book shall be open for inspection at all times by the trustees or other persons having control of the institution, the department, the governor and council, and members of the general court, and shall contain a complete record relative to the restraint, including the cause for restraint, the form used, the name of the patient, the time when the patient was placed under restraint and the time when he was released. "Restraint" in sections thirty-five to thirty-eight, in-

Restraint, records of, etc. Definition. 1911, 589, §§ 2, 4.

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clusive, shall also include therapeutic and chemical restraint and confinement in a strong room, or seclusion in solitary confinement, except when the patients are placed in their rooms for the night, but shall not include the prolonged bath, the hot or cold pack, or medication when it is used as a remedial measure and not as a form of restraint.

Penalty. 1911, 589, § 5.

SECTION 38. Any supervisor, attendant or other employee of any institution who knowingly violates or willingly permits to be violated any provision of the three preceding sections shall be punished by a fine of not less than fifty nor more than three hundred dollars.

MISCELLANEOUS PROVISIONS AFFECTING INSTITUTIONS.

Patients' Funds. 1918, 176, § 1.

SECTION 39. The superintendent of each state hospital may deposit in any bank or trust company within the commonwealth funds belonging to patients and funds deposited by their relatives or friends to be used for their benefit, in an account entitled "Patients' Funds."

Fire apparatus and escapes. 1890, 378, §§ 1, 2. R. L. 87, § 25. 1906, 508, § 6. 1909, 504, §§ 26, 107.

SECTION 40. Each institution shall be provided with proper means of escape from fire and suitable apparatus for the extinguishment of fire, and no building shall be erected or maintained at such institution without a written certificate of approval from the building inspector of the department of public safety for the district in which it is to be erected or maintained.

Trustees, etc., to furnish information to department, etc. 1898, 433, §§ 8, 17. R. L. 87, §§ 36, 38.

SECTION 41. The trustees, superintendent or manager of each institution shall furnish all the information required by the department, and shall immediately notify the department if there is any question as to the propriety of the commitment of any person received therein.

1905, 458, § 3. 1909, 504, §§ 27, 73, 107.

Certain employees exempt from civil service rules.

SECTION 42. Engineers, firemen and head farmers employed in state hospitals shall be exempt from chapter thirty-one. 1919, 350, § 80.

Westborough state hospital, superintendent and assistant physicians.

SECTION 43. The superintendent and the assistant physicians at the Westborough state hospital shall be of the homeopathic school of medicine.

1884, 322, § 6. 1909, 504, §§ 18, 107. 1915, 241, § 1.
R. L. 87, § 27. 1914, 762, §§ 6, 9.

Norfolk state hospital. 1918, 139. 1919, 350, § 81.

SECTION 44. The Norfolk state hospital may be devoted to such uses, in furtherance of the public interest with which the department is charged, as it determines, subject to any lease to the federal government.

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Massachusetts school for the feeble-minded and Wrentham state school, departments of. 1883, 239, § 1. 1886, 298, § 1. R. L. 87, § 115. 1906, 508, § 14. 1909, 504, §§ 61, 107.

SECTION 45. The Massachusetts school for the feeble-minded and the Wrentham state school shall each maintain a school department for the instruction and education of feeble-minded persons who are within the school age or who in the judgment of the trustees thereof are capable of being benefited by school instruction, and a custodial department for the care and custody of feeble-minded persons beyond the school age or not capable of being benefited by school instruction.

Same. Reception and classification of pupils. 1883, 239, § 2. 1886, 298, § 2. 1898, 433, § 28. R. L. 87, § 116. 1906, 508, § 15. 1909, 504, §§ 62, 107.

SECTION 46. Persons received by the Massachusetts school for the feeble-minded and by the Wrentham state school shall be classified in said departments as the trustees shall see fit, and the trustees may receive and discharge pupils, and may at any time discharge any pupil or other inmate and cause him to be removed to his home.

Same. Voluntary admission of certain feeble-minded persons. 1883, 239, § 6. 1886, 298, § 3. R. L. 87, § 117. 1906, 508, § 16. 1909, 504, §§ 64, 107. 1916, 122, § 2. 1917, 223, § 2. 197 Mass. 357.

SECTION 47. The trustees of either of the state schools mentioned in the two preceding sections may, at their discretion, receive any feeble-minded person from any part of the commonwealth upon application being made therefor by the parent or guardian of such person, which application shall be accompanied by the certificate of a physician, qualified as provided in section fifty-three, that such person is deficient in mental ability, and that in the opinion of the physician he is a fit subject for said school. The physician who makes the said certificate shall have examined the alleged feeble-minded person within five days of his signing and making oath to the certificate. The trustees of either of said state schools may also, at their discretion, receive any person from any part of the commonwealth upon the written request of his parent or legal guardian, and may detain him for observation for a period not exceeding thirty days, to determine whether he is feeble-minded.

Hospital cottages for children, trustees of, powers and duties. Report. 1887, 441, §§ 2, 3. 1890, 354, § 2. 1892, 407. 1898, 433, § 24. R. L. 87, §§ 124, 125. 1909, 504, §§ 66, 107. 1 Op. A. G. 68.

SECTION 48. The governor, with the advice and consent of the council, shall annually appoint a trustee of the hospital cottages for children, for five years. The appointive trustees shall serve without compensation, and, with the trustees elected by said corporation, shall have the management of the business and property of the corporation and the general supervision of its cottages. The trustees shall annually prepare and send to the department a written report of all its proceedings, income and expenditures, properly classified, for the year ending on

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November thirtieth, stating the whole number and average number of beneficiaries, the number and salaries of officers and persons employed, and such other information as the department requires.

Same. Certain children to be sent to.
1887, 441, § 4.
1889, 230, § 2.
1898, 433, § 24.
R. L. 87, § 126.
1909, 504, §§ 67, 107.
1918, 121.

SECTION 49. The department may send to and keep at the hospital cottages for children such number of children afflicted with epilepsy as shall be approved by the trustees and superintendent thereof, to be maintained at such expense to the commonwealth as shall be determined by said department and said trustees.

COMMITMENTS, ETC.

Commitment of insane persons to state hospitals.
1797, 62, § 3.
1833, 95.
1834, 150, § 3.
R. S. 48, § 6.
1839, 149, § 3.
1852, 44.
1853, 318, §§ 1, 2.
1856, 108, § 1.
G. S. 73, §§ 8, 19.
1862, 223, § 3.
1864, 288, § 6.
1867, 355, § 1.
1873, 275.
1874, 258, § 2; 293, § 16; 392, § 16.
1879, 195, § 1.
P. S. 87, § 11.
1884, 322, § 9.
R. L. 87, § 33.
1904, 459, § 1.
1905, 447.
1909, 504, §§ 29, 107.
1914, 473.
1918, 257, § 309.
1919, 5; 49, § 1.

SECTION 50. A justice of the superior court, in any county, and either of the judges of probate for Suffolk county, the judge of probate for Nantucket county, or a justice or special justice of a district court, except the municipal court of the city of Boston, within his county, may commit to any institution for the insane, designated under or described in section ten, any insane person, then residing or being in said county, who in his opinion is a proper subject for its treatment or custody; provided, that commitments to the Gardner state colony may be made only by a justice or special justice of a district court and only when authorized by the department; but such special justice may make such commitment only in case of the incapacity of the justice, his absence from the district, interest, or relationship to the applicant or to the person to be committed, or when specially authorized by the justice to act in the case, or when the justice is absent from the court building and the special justice is holding court in his place. 1920, 2. Op. A. G. (1920), 238.

Order of commitment.
1834, 150, § 3.
R. S. 48, §§ 6, 7.
1855, 464.
G. S. 73, §§ 8, 9.
1862, 223, §§ 3, 4.
1879, 195, § 2.
1880, 250, § 6.
P. S. 87, §§ 12, 14.
1886, 319, § 1.
1892, 53.
1894, 195.
1895, 429.
1898, 433, § 28; 438, § 2.
1900, 350.
R. L. 87, § 34.
1908, 613.

SECTION 51. No person shall be committed to any institution for the insane designated under or described in section ten, except the Massachusetts school for the feeble-minded and the Wrentham state school, unless there has been filed with the judge a certificate in accordance with section fifty-three of the insanity of such person by two properly qualified physicians, nor without an order therefor, signed by a judge named in the preceding section stating that he finds that the person committed is insane and is a proper subject for treatment in a hospital for the insane, and either that he has been an inhabitant of the commonwealth for the six months immediately preceding such finding or that provision satis-

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factory to the department has been made for his maintenance or that by reason of insanity he would be dangerous if at large. The order of commitment shall also authorize the custody of the insane person either at the institution to which he shall first be committed or at some other institution to which he may be transferred. Said judge shall see and examine the alleged insane person, or state in his final order the reason why it was not considered necessary or advisable so to do. The hearing, unless a jury is summoned, shall be at such place as the judge shall appoint. In all cases he shall certify in what place the insane person resided or was at the time of his commitment; or, if the commitment is ordered by a court under sections one hundred or one hundred and one the court shall certify in what place the insane person resided or was at the time of the arrest upon the charge for which he was held to answer before such court. Such certificate shall, for the purposes of the preceding section, be conclusive evidence of the residence of the person committed.

1909, 504, §§ 30, 107. 11 Gray, 107. 111 Mass. 308. 169 Mass. 387.

Commitment. Additional medical testimony. Fee. 1909, 504, § 31.

SECTION 52. If in the opinion of the judge additional medical testimony as to the mental condition of the alleged insane person is desirable, he may appoint a third physician to examine and report thereon. The fee for making such examination and report shall be four dollars, and twenty cents for each mile traveled one way.

Commitment, qualifications of physicians certifying to insanity in. 1862, 223, § 8. 1865, 268, § 1. 1879, 195, § 3. P. S. 87, § 13. 1892, 229. 1895, 286, §§ 1, 2. R. L. 87, § 35. 1906, 418. 1909, 504, §§ 32, 107. 1916, 67. 1920, 537. 177 Mass. 11. 1 Op. A. G. 322, 490. 3 Op. A. G. 289.

SECTION 53. No physician shall make a certificate of insanity under section fifty-one unless he makes oath that he is a graduate of a legally chartered medical school or college, that he has been in the actual practice of medicine for three years since his graduation and for three years last preceding the making of said oath, and that he is registered as a physician in accordance with chapter one hundred and twelve, nor unless his standing, character, and professional knowledge of insanity are satisfactory to the judge. The physician who makes such certificate shall have examined the alleged insane person within five days of his signing and making oath to the certificate, and shall state therein that in his opinion such person is insane and a proper subject for treatment in a hospital for the insane, and the facts upon which his opinion is based. A copy of the certificate, attested by the judge, shall be delivered with the insane person to the superintendent of the institution to which the person shall have been committed, to be kept on file with the order of commitment,

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and said superintendent shall forthwith transmit to the department copies of such certificate, of the statement required by the following section and of the order of commitment. Any certificate bearing date more than ten days prior to the commitment of any person alleged to be insane shall be void, and no certificate shall be valid or received in evidence if signed by a physician holding any office or appointment, other than that of consulting or advisory physician, in an institution for the insane to which such person is committed.

Commitment, statement with application for, etc. 1858, 64. G. S. 73, §§ 10, 21. 1862, 223, § 5. 1865, 268, § 2. P. S. 87, § 15. R. L. 87, § 39. 1905, 436. 1909, 504, §§ 33, 107.

SECTION 54. Upon each application for the commitment or admission of a person as a patient to an institution, a statement in a form prescribed by the department shall be filed with the application, or within ten days after the commitment or admission, giving as nearly as can be ascertained the facts therein required. A copy of the statement shall be transmitted to the superintendent of the institution and filed with the order of commitment or the application for admission. In the case of insane persons, the superintendent of the institution shall within two days after the reception of the patient send notice of his commitment or admission by mail, postage prepaid, to all persons whose addresses appear on the said statement, and to any other two persons whom the patient may designate.

Apprehension of alleged insane person. 1880, 250, § 1. P. S. 87, § 16. R. L. 87, § 41. 1909, 504, §§ 34, 107.

SECTION 55. After hearing such evidence as he may consider sufficient, the judge may, either before or after the certificate required by section fifty-one has been filed, issue a warrant for the apprehension and bringing before him of the alleged insane person, if in his judgment the condition or conduct of such person makes such action necessary or proper. Pending examination and hearing, such order may be made relative to the care, custody or confinement of the alleged insane person as the judge shall see fit.

Commitment or transfer to Westborough state hospital for homœopathic treatment. 1884, 322, § 7. R. L. 87, § 40. 1909, 504, §§ 35, 107.

SECTION 56. In making a commitment of an insane person, the judge shall inquire of the applicant for his commitment whether he desires the insane person to be treated according to homœopathic principles of medicine, and if he does, such insane person shall be committed to the Westborough state hospital in preference to any other place, if that state hospital is capable of receiving him; and any inmate of any other state hospital desiring homœopathic treatment, or for whom such treatment

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is desired by his family or by the applicant for his commitment, may be transferred by the department to the Westborough state hospital.

Jury trial on question of sanity. 1837, 228, § 1. G. S. 73, § 11. 1862, 223, § 6.

SECTION 57. The judge may, in his discretion, issue a warrant to the sheriff or his deputy, directing him to summon a jury of six men to hear and determine whether the alleged insane person is insane.

P. S. 87, § 17. R. L. 87, § 42. 1909, 504, §§ 36, 107.

Selection and impanelling of jury. 1837, 228, § 2. G. S. 73, § 12. 1862, 223, § 6. P. S. 87, § 18. R. L. 87, § 43. 1909, 504, §§ 37, 107. 1919, 333, § 6. 1920, 2.

SECTION 58. The jurors shall be selected in equal numbers from the towns where the trial is had and one or two adjoining towns, as the judge shall order, and in Suffolk and Nantucket counties they may all be taken from one town. The officer receiving the warrant shall in writing require the board authorized to draw jurors in such towns to return not less than two nor more than six jurors from each town; and the jurors shall be drawn, summoned, returned and impanelled as provided in chapter two hundred and thirty-four for civil cases, except that they need not be summoned more than twenty-four hours before the time appointed for their attendance. In the superior court the jurors may be selected from such traverse jurors in attendance at any session of said court in the same county as may be available.

Judge to preside at trial. Verdict. 1837, 228, § 3. G. S. 73, § 13.

SECTION 59. The judge shall preside at such trial and administer to the jury an oath faithfully and impartially to try the issue, and the verdict of the jury shall be final.

P. S. 87, § 19. R. L. 87, § 44. 1909, 504, §§ 38, 107.

Deficiency in jury, how supplied, etc. 1837, 228, § 4. G. S. 73, § 14. P. S. 87, § 20. R. L. 87, § 45. 1909, 504, §§ 39, 107.

SECTION 60. If by reason of challenges or otherwise there is not a full jury of the persons summoned, the judge shall cause the officer who served the summons, or in his absence the officer attending the jury, to return persons to supply the deficiency; and shall have the same authority as the superior court to enforce the attendance of jurors and witnesses and to impose fines for non-attendance.

Fees of officers, jurors and witnesses. 1837, 228, § 2. 1848, 271. 1855, 120. G. S. 73, § 15. 1862, 223, § 6. P. S. 87, § 21. R. L. 87, § 46.

SECTION 61. The officer who summons and attends the jury shall receive therefor four cents a mile for all necessary travel, and one dollar and fifty cents for each day that he attends upon them; and the jurors and witnesses shall be entitled to such compensation as is prescribed for jurors and witnesses in the superior court.

1909, 504, §§ 40, 107.

Commitment of dipsomaniacs, etc.

SECTION 62. Any of the judges named in section fifty, or a judge of the municipal court of the city of Boston,

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1885, 339, § 1. 1889, 414, §§ 6–8. 1891, 158, § 1. 1899, 266, § 1; 325, § 1. 1900, 350. 1901, 282. R. L. 87, §§ 59, 60. 1905, 400. 1909, 504, §§ 50, 107. 1914, 558. 1915, 73. 1917, 69. 1918, 139, § 1. 169 Mass. 387.

may commit to the Norfolk state hospital, to the McLean hospital, or to a private licensed institution, by an order of commitment, directed to the trustees, superintendent, or manager thereof, as the case may be, made in accordance with section fifty-one, and accompanied by a certificate, in accordance with section fifty-three, by two physicians qualified as therein provided, any male or female person, who is subject to dipsomania or inebriety either in public or private, or who is so addicted to the intemperate use of narcotics or stimulants as to have lost the power of self-control. The judge receiving the application for such commitment shall examine on oath the applicant and all other witnesses, and shall reduce the application to writing and cause it to be subscribed and sworn to by the applicant. He shall cause a summons and copy of the application to be served upon such person in the manner provided by section twenty-five of chapter two hundred and seventy-six. Such person shall be entitled to a hearing unless after receiving said summons he shall in writing waive a hearing, in which case the judge may issue an order for his immediate commitment as aforesaid, without a hearing, if he is of opinion that the person is a proper subject for custody and treatment in the institution to which he is committed. The commitment may be made forthwith, if the examining physicians certify the case to be one of emergency. A person committed as aforesaid may be detained for two years after the date of his commitment, and no longer.

Appeal from the order of commitment as dipsomaniac, etc. 1889, 414, §§ 10–12. 1899, 266, § 2. 1901, 282. R. L. 87, § 62. 1909, 504, §§ 51, 107.

SECTION 63. A person may appeal from the order of commitment as a dipsomaniac or inebriate, or as addicted to the intemperate use of narcotics or stimulants, to the superior court sitting for criminal business in the county from which he is committed, in the manner provided by section twenty-two of chapter two hundred and twelve, but he shall be held in such institution to abide the final order of the court until he recognizes in the manner provided in section eighteen of chapter two hundred and seventy-eight. Upon such appeal the judge who ordered the commitment may bind the witnesses by recognizance as provided in chapter two hundred and seventy-six, and shall make a copy of the order of commitment and other proceedings in the case and transmit the same with the recognizance, if any, to the clerk of the superior court.

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If the appellant so requests, an issue or issues shall be framed and submitted to a jury in the superior court.

Default for non-prosecution of appeal. 1889, 414, § 13. R. L. 87, § 63. 1909, 504, §§ 52, 107.

SECTION 64. If the appellant fails to enter and prosecute his appeal he shall be defaulted on his recognizance, and the superior court may enter an order in like manner as if he had been ordered to be committed by that court; and process may issue, if necessary, to bring him into court to be recommitted.

Withdrawal of appeal. 1889, 414, § 14. R. L. 87, § 64. 1909, 504, §§ 53, 107.

SECTION 65. At any time before the copy of the proceedings has been transmitted to the superior court, the appellant may be brought or may appear personally before the judge from whose order the appeal was taken, who may in his discretion, at the appellant's request, permit him to withdraw his appeal and abide by the order of said judge. Thereupon the judge shall order that the appellant comply with the order appealed from in the same manner as if it were then imposed.

Commitment to Massachusetts school for the feeble-minded or Wrentham state school. 1883, 239, § 5. 1886, 298, § 5. R. L. 87, § 118. 1906, 508, § 12. 1909, 504, §§ 63, 107. 1916, 122, § 1. 1917, 223, § 1. 202 Mass. 536. Amended. See Chapter 441, Acts of 1921.

SECTION 66. Any judge of probate, within his county, upon written application, if he finds that a person residing or being within said county is a proper subject for the Massachusetts school for the feeble-minded or the Wrentham state school, may commit him thereto by an order of commitment, directed to the trustees thereof, made in accordance with section fifty-one, and accompanied by a certificate in accordance with section fifty-three by a physician, qualified as therein provided, that such person is a proper subject for said school, and all provisions of said section shall apply to such certificate. The order of commitment shall also direct the sheriff, deputy sheriff, constable, police officer, or other person to apprehend and convey the said person to the school to which he has been committed. Unless the person sought to be committed is present at the time of the hearing, or the application is made by some one legally entitled to his custody, notice of the application and of the time and place of hearing shall be given to the person sought to be committed, and the order of commitment shall state what notice was given or the finding of facts which made notice unnecessary, and shall authorize custody of the person until he shall be discharged by order of a court or otherwise in accordance with law.

Judicial inquiry as to commitment or discharge of

SECTION 67. If an inmate of the Massachusetts school for the feeble-minded or the Wrentham state school has

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inmates of certain schools. 1906, 309, § 1. 1907, 489, § 1. 1909, 504, §§ 65, 107.

reached the limit of school age, or if in the judgment of the trustees he is incapable of being further benefited by school instruction, or if the question of the commitment to or continuance in either of the said schools of any inmate, including inmates who may have been transferred from one department to another of such school, under section forty-six, is in the opinion of the trustees and of the department a proper subject for judicial inquiry, the probate court for Middlesex county or for Norfolk county, respectively, upon the written petition of said trustees, or of said department, or of any member of either body and after such notice as the court may order, may, in its discretion, order such inmate to be brought before the court, and shall determine whether or not he is a feeble-minded person, and may commit him to such school or either department thereof, or may order him to be discharged therefrom.

General provisions relative to commitment applicable, when. 1885, 339, § 2. 1889, 414, § 7. 1899, 266, § 1. R. L. 87, § 65. 1909, 504, §§ 56, 107. 177 Mass. 11.

SECTION 68. The provisions relative to the commitment of insane persons to an institution for the insane shall, unless it is otherwise expressly provided in this chapter, apply to and govern commitments under sections sixty-two to sixty-five, inclusive, or any of them, except that when an allegation of mental condition is required it shall be specifically alleged that a person who is committed under said sections is a dipsomaniac or inebriate or is so addicted to the intemperate use of narcotics or stimulants as to have lost the power of self-control.

Commitment of insane epileptics. 1895, 483, §§ 8, 9. 1899, 211, § 1. R. L. 87, § 66. 1906, 352. 1907, 432. 1909, 504, §§ 57, 107. 1911, 71, § 1.

SECTION 69. A person who is subject to epilepsy, if he is not a criminal, an inebriate, or violently insane, may, if insane, be committed to the Monson state hospital, in accordance with the provisions of this chapter relative to the commitment of other insane persons, or, if dangerous to himself or others by reason of epilepsy, may be committed thereto in the manner provided for the commitment of dipsomaniacs and inebriates.

Commitment, order void, when. 1911, 273. 1916, 122, § 1.

SECTION 70. An order of commitment of a person to an institution shall be void if such person shall not be received at the institution within thirty days after the date of such order.

Service of warrants, etc. 1880, 250, § 1. P. S. 87, § 16. R. L. 87, § 41.

SECTION 71. Warrants and all other processes issued by a judge for the apprehension or commitment of insane persons, or of dipsomaniacs, inebriates, or persons ad-

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dicted to the intemperate use of narcotics or stimulants, or of feeble-minded persons, or of those subject to epilepsy, may be directed to and served by a court officer, by any sheriff, deputy sheriff, constable or police officer, or by any private person whom the judge may designate; and such warrants and processes may run into any county where any person to be apprehended or committed may be found, and any of the officers or persons to whom such warrants and processes are directed may serve the same in any part of the commonwealth.

1909, 504, §§ 34, 107. 1915, 136.

SECTION 72. Upon committing a woman to any institution the judge shall designate her father, husband, brother or son, or some woman, to be the attendant or one of the attendants to accompany her to the institution.

Commitment of women, attendants. 1899, 198. R. L. 87, §57. 1909, 504, §§ 47, 107.

SECTION 73. Except as is otherwise provided, the compensation of the judges, physicians and officers taking part in the commitment or admission of persons to institutions in accordance with sections three to one hundred and twelve, inclusive, shall be as follows: The judge, if required to go from his office or place of business to see and examine the person committed or admitted, shall be allowed all necessary expenses of travel. If a special justice hears and determines the application he shall receive compensation at the rate provided in section six of chapter two hundred and eighteen; provided, that he shall not receive more than four dollars and the necessary expense of travel for each commitment. The fee for each physician making a certificate shall be four dollars, and twenty cents for each mile traveled one way. The fees for officers serving process shall be the same as are allowed by law in like cases.

Compensation of judges, physicians, etc. 1836, 223, § 4. 1838, 31. 1850, 235. 1856, 108, §6. G. S. 73, §§ 17, 20; 74, § 11. 1862, 223, § 7. 1873, 275. 1879, 222. 1880, 250, § 3. P. S. 87, § 23. 1886, 298, § 5. 1894, 493. 1899, 211, § 5. R. L. 87, §§ 48, 73, 118. 1904, 459, §§ 3, 5. 1906, 508, § 12. 1909, 504, §§ 48, 107.

SECTION 74. All necessary expenses attending the apprehension, examination, trial, commitment or delivery of an alleged insane, epileptic or feeble-minded person, dipsomaniac, inebriate or one addicted to the intemperate use of narcotics or stimulants, committed to a state hospital, shall be allowed and certified by the judge and presented as often as once a year to the county commissioners of the county in which such person was committed, who shall examine and audit the same. Necessary expenses attending the apprehension, examination or trial of any person sought to be committed to a state hospital but not so committed, shall be so presented, examined and

Commitment, expenses, how paid. 1837, 228, §5. 1838, 31. 1850, 235. G. S. 73, §§ 16, 18. 1880, 250, §3. 1881, 186, §1. P. S. 87, § 24. 1899, 211, § 5. R. L. 87, §§ 49, 73. 1905, 475. 1906, 471. 1909, 504, §§ 49, 107. 1910, 420. 194 Mass. 486.

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audited if they have been allowed in the discretion of the judge and certified by him. All necessary expenses of examination and delivery of persons mentioned in section eighty-seven, when allowed in the discretion of a judge authorized to make commitments of such persons if insane, and certified by him, shall be presented as often as once a year to the county commissioners of the county, where the judge certifying the expenses was authorized by law to make commitments, who shall examine and audit the same. All expenses certified, examined and audited as provided in this section shall be paid by the proper county. Such expenses shall be repaid to the county paying them by the county, if any, of which the person committed, the person for whose commitment application was made and refused, or the person mentioned in section eighty-seven, as the case may be, is an inhabitant; but if the person committed or for whose commitment application was made but refused is an inmate of an institution of any department of the commonwealth at the time of his commitment or of the denial of the application for commitment, such expenses shall be repaid to the county paying them by the county of which such inmate was an inhabitant at the time of his admission or commitment to such institution, or, if he was not an inhabitant of any county, by the county from which he was sent to such institution. The necessary expenses of returning to a state hospital a person temporarily absent therefrom, under section eighty-eight, shall be paid by such person or his guardian, relative or friend if of sufficient ability, or may be paid by the county where he is found, if the condition of the person returned is such that a new commitment would be necessary if he were not returned; such expenses shall be certified and audited as in the case of a commitment, and shall be repaid as hereinbefore provided by the county of the person's residence. If application is made for the commitment of a person whose expenses and support are not to be paid by the commonwealth, the said expenses shall be paid by the applicant or by a person in his behalf.

Commitment, judge to keep docket, etc. 1880, 250, § 2. P. S. 87, § 22. R. L. 87, § 47. 1904, 459, § 2. 1909, 504, §§ 41, 107.

SECTION 75. Each judge shall keep a docket or record of the causes relative to insane persons coming before him, numbered or otherwise properly designated, and the disposition thereof. He shall also receive and keep on file the original application, statement of applicant and

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certificate of physicians, and the copy of the order of commitment, attested by, and with the return thereon of, the officer or other person serving the same. Said docket or record and other documents required to be kept as above shall be transmitted, on the death, resignation or removal of the judge to his successor in office.

Psychopathic hospital service. 1917, 115. 1920, 537, § 1.

SECTION 76. The department may develop, extend and complete a state wide system of psychopathic hospital service by establishing and maintaining new hospital and out-patient units in suitable districts in connection with existing or future state hospitals. The administration of the separate new district units and the appropriations granted therefor shall be in accordance with the laws governing the state hospitals to which the land, buildings and furnishing of said units shall appertain. The direction of the scientific work in such units shall be vested in the departments by means of its duly appointed agents.

Observation, commitment for. 1909, 504, § 43. 1919, 49, § 1; 145.

SECTION 77. If a person is found by two physicians qualified as provided in section fifty-three, to be in such mental condition that his commitment to an institution for the insane is necessary for his proper care or observation, he may be committed by any judge mentioned in section fifty, to a state hospital or to the McLean hospital, for a period of thirty-five days pending the determination of his insanity; provided, that such commitments shall be made to Gardner state colony only when legally authorized by the department. Within thirty days after such commitment the superintendent of the institution to which the person has been committed shall discharge him if he is not insane, and shall notify the judge who committed him, or if he is insane he shall report the patient's mental condition to the judge with the recommendation that he shall be committed as an insane person, or discharged to the care of his guardian, relatives or friends if he is harmless and can properly be cared for by them. Within the said thirty-five days, the committing judge may authorize a discharge as aforesaid, or he may commit the patient to the institution as an insane person if, in his opinion, such commitment is necessary. If, in the opinion of the judge, additional medical testimony as to the mental condition of the alleged insane person is desirable, he may appoint a physician to examine and report thereon.

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Commitment of persons violently insane, etc., without order of court. 1881, 272, §§ 1, 2. P. S. 87, §§ 26, 27. 1898, 438, § 1. R. L. 87, § 52. 1909, 504, §§ 42, 107. 1919, 49, § 2.

SECTION 78. The superintendent or manager of any institution for the insane and, in the case of Gardner state colony, when so authorized by the department, may without the order of a judge required by sections fifty and fifty-one, receive into his custody and detain in such institution for not more than five days any person whose case is certified to be one of violent and dangerous insanity or of other emergency by two physicians qualified as provided in section fifty-three by a certificate conforming in all respects to said section, which certificate may be filed with a judge, as the certificate required by section fifty-one. The officers mentioned in section ninety-five or any member of the state police, shall upon the request of the applicant or of one of the said physicians, cause the arrest and delivery of such person to such superintendent or manager. The person applying for such admission shall within five days cause the alleged insane person to be committed to or removed from the institution, and failing so to do shall be liable to the commonwealth, in the case of a state hospital, or to the person maintaining the institution, in the case of a private institution, for the expenses incurred and to a penalty of fifty dollars, which may be recovered in contract by the state treasurer, or the person maintaining the private institution, as the case may be.

Temporary care of insane persons needing immediate care, etc. 1911, 395. 1915, 174. 1919, 49, § 2. 4 Op. A. G. 467.

SECTION 79. The superintendent or manager of any institution for the insane, and, in the case of the Gardner state colony, when so authorized by the department, may, when requested by a physician, or by a member of the board of health, a selectman or a police officer of a town, by an agent of the institutions registration department of Boston, or by a member of the state police, receive and care for in such institution as a patient, for a period not exceeding ten days, any person needing immediate care and treatment because of mental derangement other than delirum tremens or drunkenness. Such request for admission of a patient shall be put in writing and be filed at the institution at the time of his reception, or within twenty-four hours thereafter, together with a statement in a form prescribed or approved by the department, giving such information as it deems appropriate. Any such patient deemed by the superintendent or manager not suitable for such care shall, upon the request of the superintendent or manager, be removed forthwith from the in-

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stitution by the person requesting his reception, and, if he is not so removed, such person shall be liable to the commonwealth or to the person maintaining the private institution, as the case may be, for all reasonable expenses incurred under this section on account of the patient, which may be recovered in contract by the state treasurer or by such person, as the case may be. The superintendent or manager shall cause every such patient either to be examined by two physicians, qualified as provided in section fifty-three, who shall cause application to be made for his admission or commitment to such institution, or to be removed therefrom before the expiration of said period of ten days, unless he signs a request to remain therein, under section eighty-six. Reasonable expenses incurred for the examination of the patient and his transportation to the institution shall be allowed, certified and paid as provided by section seventy-four.

Temporary care of persons addicted to intemperate use of narcotics etc. 1917, 232, § 3.

SECTION 80. The superintendent or manager of any institution for the care and treatment of persons addicted to the intemperate use of narcotics or stimulants may, when requested by a physician, by a member of the board of health or a police officer of a town, by an agent of the institutions registration department of Boston, by a member of the state police, or by the wife, husband, guardian or, in the case of an unmarried person having no guardian, by the next of kin, receive and care for in such institution, as a patient for a period not exceeding fifteen days, any person needing immediate care and treatment because he has become so addicted to the intemperate use of narcotics or stimulants that he has lost the power of self-control. Such request for the admission of a patient shall be made in writing and filed at the institution at the time of his reception, or within twenty-four hours thereafter, together with a statement, in a form prescribed by the department, giving such information as it deems appropriate. The trustees, superintendent or manager of such institutions shall cause to be kept a record, in such form as the department requires of each case treated therein, which shall at all times be open to the inspection of the department and its agents. Such records shall not be a public record, nor shall the same be received as evidence in any legal proceeding. The superintendent or manager of such an institution shall not detain any person received as above for more than fifteen

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days, unless, before the expiration of that period, such person has been committed under section sixty-two, or has signed a request to remain at said institution under section eighty-six.

Temporary care of insane, notice to department. 1881, 272, § 4. P. S. 87, § 29. 1886, 101, § 4. R. L. 87, § 54. 1905, 432, § 2. 1909, 504, §§ 46, 107.

SECTION 81. Whenever a patient is received into any institution the superintendent or manager thereof shall give immediate notice of such reception to the department, stating all the particulars of the case, except where such information is contained in copies required to be sent to the department by section fifty-three.

1918, 257, §§ 310, 311. 1919, 5. 1920, 2.

Temporary care by board of health, when. 1911, 394.

SECTION 82. No person suffering from insanity, mental derangement, deliriums, or mental confusion, except delirium tremens and drunkenness, shall, except in case of emergency, be placed or detained in a lockup, police station, city prison, house of detention, jail or other penal institution or place for the detention of criminals. If, in case of emergency, any such person is so placed or detained, he shall forthwith be examined by a physician and shall be furnished suitable medical care and nursing and shall not be so detained for more than twelve hours. Any such person not so placed or detained who is arrested by or comes under the care or protection of the police, and any other such person who is in need of immediate care and treatment which cannot be provided without public expense, shall be cared for by the board of health of the town where such person may be. Such board of health shall cause such person to be examined by a physician as soon as possible, shall furnish him with suitable medical care and nursing, and shall cause him to be duly admitted or committed to an institution, unless prior to such admission or commitment he shall recover or be suitably provided for by his relatives or friends. Reasonable expenses for board, lodging, medical care, nursing, clothing and all other necessary expenses incurred by the board of health, under this section, shall be allowed, certified and paid in the same manner as provided by section seventy-four.

Transfer of inmates by governor. 1853, 318, § 3. 1856, 247, § 5. G. S. 73, § 26. P. S. 87, § 38.

SECTION 83. The governor may cause an inmate of a state hospital to be removed to another state hospital, as the circumstances or the necessities of the case may in his judgment require. R. L. 87, § 85. 1909, 504, §§ 68, 107.

Insane persons in United States service, treatment of.

SECTION 84. The superintendent of any state hospital for the insane, except Gardner state colony, or of the

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McLean hospital, may receive for care and treatment any person in the military or naval service of the United States who is suffering from mental disease and cannot properly be cared for at the army post, naval station or government hospital where he is stationed or happens to be, upon the written application of the medical officer in charge thereof, who shall make a full statement of the case in such form as the department prescribes. Unless otherwise ordered by the proper military or naval authority, persons received into an institution under this section may be detained therein for a period not exceeding sixty days, except that further detention, if necessary, may be authorized by the department. 1918, 142, § 1. 1919, 49, § 1.

SECTION 85. The department may make contracts with the federal government relative to the support of persons received and cared for under the preceding section on such terms as may be agreed upon. Same subject. Contracts. 1918, 142, § 2.

VOLUNTARY INMATES.

SECTION 86. The trustees, superintendent or manager of any institution to which an insane person, a dipsomaniac, an inebriate, or one addicted to the intemperate use of narcotics or stimulants may be committed, and, in the case of Gardner state colony, when so authorized by the department, may receive and detain therein as a boarder and patient any person who is desirous of submitting himself to treatment, and who, being mentally competent, makes written application therefor; and any such person who desires so to submit himself for treatment may make such written application. No such person shall be detained more than three days after having given written notice of his intention or desire to leave the institution. Voluntary admissions. 1881, 272, § 3. P. S. 87, § 28. R. L. 87, § 53. 1905, 432, § 1. 1906, 316. 1909, 504, §§ 45, 54, 107. 1918, 139, § 3. 1919, 49, § 2. 1 Op. A. G. 283.

SECTION 87. The trustees of the Monson state hospital may receive and detain therein as a patient any person who is certified to be subject to epilepsy by a physician qualified as provided in section fifty-three, and who desires to submit himself to treatment and makes written application therefor, and whose age and mental condition are such as to render him competent to make such application, or for whom application is made by a parent or guardian. No such patient shall be detained more than three months after having given written notice of his intention or desire to leave the hospital. Upon the patient's Monson state hospital, admission to, etc. 1895, 483, § 10. 1897, 395, § 4. 1898, 213, §§ 1–5. 1899, 211, §§ 2–4. R. L. 87, §§ 67–72. 1907, 432. 1909, 504, §§ 58, 107. 1911, 71, § 2. 1 Op. A. G. 515.

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reception at the hospital, the superintendent shall report the particulars of the case to the department, which may investigate the same.

RELEASE AND DISCHARGE.

Temporary absence on leave.
1883, 78, § 2.
1889, 414, §§ 8, 9.
1899, 325, § 1.
R. L. 87, §§ 60, 95.
1905, 435.
1909, 504, §§ 75, 107.
1916, 239.
1917, 48.
165 Mass. 559.
3 Op. A. G. 151.
Op. A. G. (1920) 213.

SECTION 88. The superintendent or manager of any institution, after the examination required by section ninety-four has been made, may permit any inmate thereof temporarily to leave such institution in charge of his guardian, relatives, friends, or by himself, for a period not exceeding twelve months, and may receive him when returned by any such guardian, relative, friend, or upon his own application, within such period, without any further order of commitment, but no patient committed under section one hundred and one shall be permitted to temporarily leave the state hospital without the approval of the governor and council, nor shall such permission terminate or in any way affect the original order of commitment. The superintendent or manager may require as a condition of such leave of absence, that the person in whose charge the patient is permitted to leave the institution shall make reports to him of the patient's condition. Any such superintendent, manager, guardian, relative or friend may terminate such leave of absence at any time and authorize the arrest and return of the patient. The officers mentioned in section ninety-five shall cause such a patient to be arrested and returned upon the request of any such superintendent, manager, guardian, relative or friend. Any patient, unless he has been committed under section one hundred and one, who has not returned to the institution at the expiration of twelve months shall be deemed to be discharged therefrom.

Discharge by trustees or court.
1832, 163, § 6.
1834, 150, § 6.
1835, 129, § 3.
R. S. 48, §§ 14, 15.
1839, 149, § 1.
G. S. 73, §§ 27, 29, 30.
1862, 223, §§ 13–15.
1871, 321, §§ 1, 2.
P. S. 87, §§ 39–41.
1883, 78, § 1.
1885, 339, § 3.
1897, 474, § 2.
1898, 433, § 21.
1899, 266, § 3; 325, § 2.

SECTION 89. The superintendent or manager of a private institution described in section three, the superintendent of a state hospital and of the McLean hospital, when authorized thereto by the trustees of such institution, the trustees themselves, the department, or, on written application, a judge of probate for the county where the institution is situated, or where the inmate had his residence at the time of his commitment or admission, or a justice of the supreme judicial court in any county, after such notice as the said superintendent, manager, trustees, department, judge or justice, may consider reasonable and proper, may discharge any inmate if it appears upon ex-

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amination that he will be sufficiently provided for by himself, his guardian, relatives or friends, or that his detention in such institution is no longer necessary for his own welfare or the safety of the public. If the legal or natural guardian or any relative of an inmate opposes such discharge, it shall not be made without written notice having been given to the person opposing such discharge. This section shall not apply to persons committed by a court under any provision of sections one hundred to one hundred and five, inclusive.

R. L. 87, §§ 86, 91–94, 96. 1906, 508, § 15. 1909, 504, §§ 76, 107. 165 Mass. 559. 1 Op. A. G. 487. 2 Op. A. G. 122. 4 Op. A. G. 586. Amended. See Chapter 441, Acts of 1921.

SECTION 90. No unrecovered inmate who is known to have committed or attempted to commit violence to others, or who in the opinion of the superintendent or manager is, or is likely to become dangerous to others, shall be discharged from or permitted to leave an institution under either of the two preceding sections by the trustees, superintendent or manager without written approval of the department. The department shall not grant such approval unless the superintendent or manager shall have submitted to it a written report containing a full statement of the case and of the reasons for his opinion whether or not the patient is or is likely to become dangerous to others, and such other information as the department may require, nor unless the department is satisfied by such report or by its own investigation that such inmate is not and is not likely to become dangerous to others, or, if so dangerous, that sufficient precautions will be taken to protect the public safety. The department, if it does not agree with such superintendent or manager, may file a petition for instructions in the probate court for the county where the institution is situated, and such court may in its discretion order such inmate to be brought before it and cause him to be examined by one or more experts in insanity, shall determine whether or not he is or is likely to become dangerous to others, and, if so dangerous, whether sufficient precautions will be taken to protect the public safety, and may order him to be discharged or to be returned to the institution. Copies of all reports, decisions, findings and evidence connected with the case shall be transmitted to the institution, and made a part of the case record of the inmate. Reasonable expenses incurred by the probate court in such examination shall be approved by the court and paid by the commonwealth.

Discharge of unrecovered insane person. 1909, 504, § 77.

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Discharge, application for.
1864, 288, § 1.
1871, 321, § 3.
P. S. 87, § 42.
R. L. 87, § 97.
1909, 504, §§ 78, 107.
1916, 122, § 3.

SECTION 91. Any person may make written application to a justice of the supreme judicial court at any time and in any county, stating that he believes or has reason to believe that a person named in such application is confined as an insane person in an institution or other place, public or private, and ought not longer to be so confined, giving the names of all persons supposed to be interested in keeping him in confinement, and requesting his discharge. Such an application may likewise be made by any inmate of the Massachusetts school for the feeble-minded or of the Wrentham state school, or by any person in his behalf.

Discharge, notice to superintendent, further proceedings.
1839, 149, § 1.
G. S. 73, § 30.
1864, 288, §§ 3, 5.
1871, 321, § 4.
P. S. 87, § 43.
R. L. 87, § 98.
1909, 504, §§ 79, 107.
1916, 122, § 4.

SECTION 92. If an application is made under the preceding section, the justice, upon reasonable cause shown for a hearing, shall order notice of the time and place thereof to be given to the superintendent or manager of the institution or place of confinement, and to such other persons as he considers proper; and such hearing shall be given as soon as conveniently may be before any justice of the supreme judicial court in any county. The alleged insane or feeble-minded person may be brought before the justice at the hearing upon a writ of habeas corpus, if any person so requests and the justice considers it proper. Pending the decision of the court such person shall remain in the custody of the superintendent or manager. An issue or issues may be framed and submitted to a jury by direction of the justice or on the request of any person who appears in the case. The jurors may be those in attendance on said court, if in session at the time of the hearing, or may be summoned for the purpose upon the order of the justice substantially in accordance with chapter two hundred and thirty-four.

Discharge if not insane or dangerous.
1871, 321, § 5.
1879, 132.
P. S. 87, § 44.
R. L. 87, § 99.
1909, 504, §§ 80, 107.
1916, 122, § 5.
3 Allen, 225.

SECTION 93. If it appears upon the verdict of the jury, or in the opinion of the justice if the case is not submitted to a jury, that the person so confined is not insane, or that he is not dangerous to himself or others and ought not longer to be so confined, or in case of an inmate of the Massachusetts school for the feeble-minded or of the Wrentham state school, either that such inmate is not feeble-minded, or that continued custody of his person is unnecessary and unreasonable or that he can be discharged with safety to himself and the public, and will be cared for properly elsewhere, he shall be discharged from confinement.

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Clothing, etc., to be furnished on discharge. 1834, 150, § 9. R. S. 48, § 13. G. S. 73, § 32. P. S. 87, § 45. R. L. 87, § 101. 1909, 504, §§ 81, 107. 1 Op. A. G. 159.

SECTION 94. No state charge in a state hospital shall be discharged therefrom without suitable clothing; and the trustees may furnish the same, and such amount of money, not exceeding twenty dollars, as they may consider necessary. Inquiry shall be made into the future situation of every patient about to be discharged, and precautionary medical advice shall be given to him. No patient shall be discharged or permitted to be temporarily absent from any institution without a personal examination of his mental condition made by one of the hospital physicians within forty-eight hours of his departure, the result of which shall be entered in his case record.

ESCAPE.

Escape, arrest after. 1897, 474, § 1. R. L. 87, § 61. 1909, 504, §§ 86, 107.

SECTION 95. An inmate of any institution, who escapes therefrom, may be arrested and returned thereto by an officer qualified to serve criminal process in any county, or by any officer or employee of such institution. The superintendent of police of Boston, city marshals and chiefs of police of towns, upon information from the superintendent or manager of such institution of such an escape, shall cause the person so escaping, if he is within such town, to be arrested and returned to the institution at its expense.

SUPPORT.

Support of inmates in state hospitals. 1832, 163, §§ 4, 5. 1834, 150, §§ 5, 7. 1835, 129, §§ 1, 2, 4. R. S. 48, §§ 8–11, 16. 1837, 228, § 7. 1856, 108, § 4. 1857, 209. 1858, 161. 1859, 107, § 2. G. S. 73, §§ 22–24. 1862, 223, §§ 9–11. 1863, 240, § 9. 1864, 138, § 1. 1870, 105, § 1. 1879, 88. 1880, 149. P. S. 87, §§ 31–33. 1883, 239, §§ 3. 1884, 322, § 9. 1886, 298, §§ 7, 10.

SECTION 96. The trustees of state hospitals, directly or through an authorized agent or agents, may make contracts fixing the price for the support of inmates, at a sum not less than six dollars per week, and binding the persons making such contracts to payment thereunder. The price for the support of inmates for whose support such a contract is not made, or of inmates payments for whose support under such contracts are in default and for insane inmates of the state infirmary and of the Bridgewater state hospital, not under orders of a court, shall be determined by the department at a sum not exceeding six dollars per week for each person, and may be recovered of such persons or of the husband, wife, father, mother, grandfather, grandmother, child or grandchild if of sufficient ability. A married woman shall be subject to the said liability as though sole. Such action shall be brought by the attorney general in the name of the state treasurer.

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1889, 414, § 17.
1892, 425, § 4.
1895, 483, § 12.
1897, 395, § 4.
1898, 213, §§ 1–5.
1899, 211, §§ 3, 4.
1900, 451, § 1.
R. L. 87, §§ 68–72, 75–80, 120.
1905, 354.
1906, 508, § 17.
1908, 613, § 1; 629.
1909, 504, §§ 45, 82, 107.
1915, 208.
1917, 133.
1918, 139, § 3.
18 Pick. 379.
3 Met. 1.
9 Cush. 585.
1 Gray, 514.
5 Gray, 390.
9 Gray, 32.
11 Gray, 107.
6 Allen, 585.
12 Allen, 510.
116 Mass. 570.
119 Mass. 479.
130 Mass. 12.
131 Mass. 328.
151 Mass. 96.
160 Mass. 232.
164 Mass. 506.
194 Mass. 486.
195 Mass. 42.
196 Mass. 63.
1 Op. A. G. 515.
3 Op. A. G. 102.
Amended. See Chapter 317, Acts of 1921.

Any person making payment for such support may recover the same, by suit in equity in the superior court to which any or all of the classes of persons hereinbefore named may be made parties, regardless of the existence of the marriage relation, from any person primarily liable for such support, or may have the amount so paid apportioned among those who are not primarily liable, in proportion to their respective ability to pay, and may recover such apportionment.

Any guardian or conservator of such an inmate who, having property of his ward in his possession or control exceeding two hundred dollars in value, fails to pay, within three months after receipt of any bill therefor, for his support at the rate determined by the department, shall, upon application of the attorney general, forthwith be removed.

In all proceedings under this section the sworn statement of a person that he is the superintendent of one of said institutions, or keeps or has custody of the records thereof or of the records of the department, and that a certain person has been an inmate of said institution during a certain period of time, or that the price of the support of a certain inmate has been determined at a certain sum by the department, shall be prima facie evidence of the said facts.

PRIVILEGES OF PATIENTS.

Attorney may visit patients, when.
1879, 195, § 4.
P. S. 87, § 35.
R. L. 87, § 82.
1909, 504, §§ 84, 107.

SECTION 97. An attorney at law regularly retained by or on behalf of any person committed to an institution shall be admitted to visit his client at all reasonable times, if in the opinion of the superintendent or manager thereof such visit would not be injurious to such person, or if a justice of the supreme judicial or superior court, in any county, or a judge of probate within his county first orders in writing that such visit be allowed.

Patients may write to the department.
1874, 363, §§ 1, 2.
P. S. 87, § 36.
1898, 433, § 15.
R. L. 87, § 83.
1909, 504, §§ 85, 107.
4 Op. A. G. 219.

SECTION 98. All patients of any institution shall be allowed to write freely to the department, subject to its regulations. Letters so written shall be forwarded unopened by the superintendent, manager or person in charge of said institution to said department, and letters or other communications by or from the department may be sent to the patient. All other letters to or from the patient may be sent as addressed or to his parent or legal guardian or most interested friend.

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INSANE PRISONERS, ETC.

Mental condition of persons coming before the courts, how determined. Expenses. 1918, 153.

SECTION 99. In order to determine the mental condition of any person coming before any court of the commonwealth, the presiding judge may, in his discretion, request the department to assign a member of the medical staff of a state hospital to make such examinations as he may deem necessary. No fee shall be paid for such examination, but the examining physician may be reimbursed for his reasonable traveling expenses.

Commitment to state hospitals of persons under indictment. 1849, 68. G. S. 172, § 14. P. S. 214, § 16. 1891, 379, § 12. R. L. 219, §§ 11, 12. 1904, 257. 1909, 504, §§ 103, 107. 1917, 46, § 1. 212 Mass. 438. Amended. See Chapter 415, Acts of 1921.

SECTION 100. If a person under complaint or indictment for any crime, is, at the time appointed for trial or sentence, or at any time prior thereto, found by the court to be insane or in such mental condition that his commitment to an institution for the insane is necessary for his proper care or observation pending the determination of his insanity, the court may commit him to a state hospital under such limitations as it may order. The court may in its discretion employ one or more experts in insanity, or other physicians qualified as provided in section fifty-three, to examine the defendant, and all reasonable expenses incurred shall be audited and paid as in the case of other court expenses. A copy of the complaint or indictment and of the medical certificates attested by the clerk shall be delivered with such person in accordance with section fifty-three. If reconveyed to jail or custody under section one hundred and five, he shall be held in accordance with the terms of the process by which he was originally committed or confined.

Commitment of persons acquitted of murder, etc., by reason of insanity. 1873, 227. P. S. 214, §§ 20, 21. 1895, 390, § 7. R. L. 219, § 16. 1909, 504, §§ 104, 107.

SECTION 101. If a person indicted for murder or manslaughter is acquitted by the jury by reason of insanity, the court shall order him to be committed to a state hospital during his natural life. The governor, with the advice and consent of the council, may discharge such a person therefrom when he is satisfied after an investigation by the department that such discharge will not cause danger to others. 136 Mass. 489.

Insane prisoners, examination. 1844, 120, §§ 1, 2. 1856, 135. G. S. 180, §§ 1, 3. 1862, 8. 1880, 250, § 5. P. S. 222, § 10. 1885, 320, § 1.

SECTION 102. The department shall designate two persons, experts in insanity, to examine prisoners in the state prison, the Massachusetts reformatory, the prison camp and hospital or the reformatory for women, alleged to be insane. If any such prisoner appears to be insane, the warden or superintendent shall notify one or both of said experts, who shall, with the physician of such penal in-

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1886, 101, § 4. 1898, 433, §§ 24, 28. R. L. 225, § 101. 1906, 472. 1909, 274; 504, §§ 105, 107.

stitution, examine the prisoner and report the result of their investigation to the superior court of the county where such penal institution is situated or to the appropriate district court mentioned in the following section.

1910, 345, § 1. 1911, 604, § 1. 173 Mass. 550. 4 Op. A. G. 531.

Insane prisoners, removal to state hospital. 1844, 120, § 2. G. S. 180, § 3. 1880, 250, § 5. P. S. 222, § 10. 1885, 320, § 1. 1886, 101, § 5. 1895, 390, § 3. 1898, 433, § 28. 1900, 472. R. L. 85, § 41; 225, § 101. 1906, 472. 1909, 274; 504, §§ 105, 107. 1910, 345, § 1. 1911, 604, § 1. 173 Mass. 550. 195 Mass. 42. 1 Op. A. G. 113.

SECTION 103. The superior court upon a report under the preceding section, if it considers the prisoner to be insane and his removal expedient, shall issue a warrant, directed to the warden or superintendent, authorizing him to cause the prisoner, if a male, to be removed to the Bridgewater state hospital, and, if a female, to be removed to one of the state hospitals for the insane, there to be kept until, in the judgment of the superintendent and the trustees of the institution to which the prisoner has been committed he should be returned to prison. Reports on the insanity of prisoners in the Massachusetts reformatory, required by said section, may be submitted to the district court of central Middlesex, and that court shall have the same authority as the superior court to issue the warrant for the commitment of a prisoner in the Massachusetts reformatory to the Bridgewater state hospital as is above provided. Reports in respect to the insanity of prisoners in the reformatory for women may be submitted to the first district court of southern Middlesex, and that court shall have the same authority as the superior court to issue the warrant for the commitment of a prisoner in the reformatory for women to one of the state hospitals for the insane as is above provided. When the superintendent and trustees determine that the prisoner should be so returned, they shall so certify upon the said warrant, and notice, accompanied by a written statement regarding the mental condition of the prisoner, shall be given to the warden or superintendent of such penal institution, who shall thereupon cause the prisoner to be reconveyed thereto, there to remain pursuant to the original sentence, computing the time of his detention or confinement in the said hospital as part of the term of his imprisonment.

Insane prisoners, removal from jails, houses of correction, etc. R. S. 145, §§ 1, 2. 1853, 259. G. S. 180, §§ 4, 5.

SECTION 104. If a prisoner under sentence in a jail, house of correction, or prison other than those named in section one hundred and two, appears to be insane, the physician in attendance shall make a report thereof to the jailer or master who shall transmit the same to one of

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the judges mentioned in section fifty. If the judge finds in accordance with sections twenty-four, fifty and fifty-one that the prisoner is insane and that his removal is expedient, he shall order the removal of such prisoner, if a male to the Bridgewater state hospital, if a female to one of the state hospitals for the insane, pursuant to said sections; provided, that if a male prisoner has not been criminal and vicious in his life the judge may order him removed to one of the state hospitals. A physician, other than the physician in attendance at the place of detention, making the certificate, shall be entitled to the compensation provided by section seventy-three. If a prisoner is reconveyed under the following section to a jail, house of correction or prison mentioned in this section, he shall there remain pursuant to the original sentence, computing the time of his detention or confinement in the said hospital as a part of the time of his imprisonment.

1880, 250, § 6. P. S. 222, §§ 12, 13. 1886, 219, § 1. 1895, 390, § 3. R. L. 85, § 41; 225, § 102. 1909, 504, §§ 98, 106, 107. 1910, 122. 1917, 46, § 2. 195 Mass. 42.

Reconveyance of prisoners restored to sanity.

SECTION 105. When in the opinion of the trustees and superintendent of the state hospital to which a prisoner has been removed under section one hundred or section one hundred and four, the prisoner is restored to sanity, they shall so certify upon the commitment, and notice accompanied by a written statement regarding the mental condition of the prisoner shall be given to the keeper or master of the jail or house of correction, the superintendent of the prison, or to the person having custody of him at the time of the removal, who shall thereupon cause the prisoner to be reconveyed to the jail, house of correction, prison, or custody from which he was removed.

R. S. 145, § 2. 1853, 259. G. S. 180, § 5. P. S. 222, § 13. 1886, 219, § 1. 1895, 390, § 6. R. L. 85, § 41; 225, § 102. 1909, 504, §§ 98, 103, 106, 107. 1910, 122. 1917, 46.

RENDITION.

Rendition of insane persons.

SECTION 106. The governor may upon demand deliver to the executive of any other state any person who has escaped from an institution for the insane to which he has been committed under the laws of such state, and who may be dangerous to the safety of the public, or may upon application appoint an agent to demand of the executive authority of any other state any person who has escaped from an institution in this commonwealth. Such demand or application shall be accompanied by an attested copy of the commitment and sworn evidence of the superintendent or manager of the institution stating that the person demanded has escaped from such institution, and by such further evidence as the governor requires.

1909, 504, § 87. 219 Mass. 548.

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Warrant to issue. 1909, 504, § 88.

SECTION 107. If the governor is satisfied that the demand made upon him under the preceding section conforms to law and ought to be complied with, he shall issue his warrant under the seal of the commonwealth to an officer authorized to serve warrants in criminal cases, directing him at the expense of the agent who makes the demand, and at a time designated in the warrant, to take and transport such person to the boundary line of the commonwealth and there deliver him to such agent. The officer may require aid as in criminal cases.

Writ of habeas corpus, when. 1909, 504, § 89.

SECTION 108. A person arrested upon such a warrant shall not be delivered to the agent of another state until he has been notified of the demand for his surrender and has had an opportunity to apply for a writ of habeas corpus, if he claims such right of the officer making the arrest. If the said writ is applied for, notice thereof and of the time and place of hearing shall be given to the attorney general or to the district attorney for the district where the arrest is made. An officer who delivers such person in his custody upon such warrant to such agent for rendition without having complied with this section shall forfeit not more than one thousand dollars. Pending the determination of the court upon an application for the said writ, the person shall be detained in custody in a suitable institution for the insane.

Payment of expenses. 1909, 504, § 90.

SECTION 109. If an application made under section one hundred and six for the arrest of a patient escaped from an institution in the commonwealth is granted and an agent is appointed as therein provided, his reasonable expenses shall be paid by the institution from which the patient escaped, but the governor may direct the whole or part of such expense to be repaid by the commonwealth to such institution.

CERTAIN ACTS FORBIDDEN.

Conspiracy to commit a sane person. Penalty. 1881, 272, § 5. P. S. 87, § 30. R. L. 87, § 56. 1909, 504, §§ 91, 107.

SECTION 110. A physician who wilfully conspires with a person unlawfully or improperly to commit to an institution for the insane a person who is not insane shall be punished by fine or imprisonment, at the discretion of the court.

Ill-treatment, etc. Penalty. 1909, 504, § 92.

SECTION 111. Any person employed in an institution, or having charge of an insane, feeble-minded or epileptic person, whether by reason of any contract or of any ties

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of relationship or marriage or otherwise, who ill-treats or wilfully neglects such person shall be punished by fine or imprisonment, at the discretion of the court.

Escape, connivance at. Penalty. 1909, 504, § 93. 1919, 48.

SECTION 112. Any person who wilfully permits or assists, or connives at, the escape of a patient from any institution, or secretes a patient who has escaped therefrom shall be punished by fine or imprisonment, at the discretion of the court.

DEFECTIVE DELINQUENTS.

Commitments to department for defective delinquents. 1911, 595, § 1. Amended. See Chapter 270, Acts of 1921.

SECTION 113. In any case where a court might by way of final disposition commit an offender to the state prison, the reformatory for women, any jail or house of correction, the Massachusetts reformatory, the state farm, the industrial school for boys, the industrial school for girls, the Lyman school, any county training school, or the custody of the department of public welfare, for an offence not punishable by death or imprisonment for life, if it shall appear that the offender has committed the offence with which he is charged, is mentally defective and is not a proper subject for a school for the feeble-minded or for commitment as an insane person, the court may commit him to a department for defective delinquents, established under sections one hundred and seventeen and one hundred and twenty-four, according to his age and sex, as hereinafter provided.

Removal from institution because of violation of regulations. 1911, 595, § 2.

SECTION 114. If an offender while under commitment to any of the institutions named in the preceding section or to the department of public welfare persistently violates the regulations of the institution or department in whose custody he is, or conducts himself so indecently or immorally, or otherwise so grossly misbehaves as to render himself an unfit subject for retention in said institution or by said department, and it appears that such offender is mentally defective and is not a proper subject for a school for the feeble-minded, a physician in attendance at any institution named in the preceding section or a physician employed by said department shall make a report thereof to the officer in charge of said institution or to the director of child guardianship, who shall transmit the same to one of the judges mentioned in section fifty. The judge shall make inquiry into the facts and, if satisfied that the offender is mentally defective and not a proper subject for

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a school for the feeble-minded, shall order his removal to a department for defective delinquents, according to his age and sex as hereinafter provided.

Certificate of mental defectiveness to be filed in certain cases. 1911, 595, § 3.

SECTION 115. No person shall be committed to a department for defective delinquents under either of the two preceding sections unless there has been filed with the judge a certificate of the mental defectiveness of such person by two physicians qualified as provided in section fifty-three. The fees of the certifying physicians shall be of the amount and paid in the manner provided for like service in sections three to one hundred and twelve, inclusive.

Removal from school for feeble-minded. Violation of regulations, etc. 1911, 595, § 4.

SECTION 116. If an inmate of a school for the feeble-minded persistently violates the regulations of the school, or conducts himself so indecently or immorally, or so grossly misbehaves as to render himself an unfit subject for retention therein, the officer in charge shall make a report thereof to one of the judges mentioned in section fifty. The judge shall make inquiry into the facts and, if satisfied that such inmate is not a fit subject for retention in the school, shall order his removal to a department for defective delinquents, according to his age and sex, as hereinafter provided.

Departments for defective delinquents may be established, etc. 1911, 595, § 5. 1913, 796, § 1. 1916, 241, §§ 1, 2. 1919, 199, § 1; 350, § 82. Amended. See Chapter 270, Acts of 1921.

SECTION 117. At the reformatory for women, the Massachusetts reformatory, the state farm or such other place or places as may be approved by the governor and council, there may be maintained departments to be termed departments for defective delinquents, for the custody of persons committed thereto under sections one hundred and thirteen to one hundred and sixteen, inclusive. All men and boys so committed shall be committed to the department for male defective delinquents. All women and girls so committed shall be committed to the department for female defective delinquents. All such persons committed to the department for defective delinquents at any institution under control of the department of correction shall be and remain in the custody of the said department until discharged as hereinafter provided.

Parole, etc. 1911, 595, § 6. 1916, 241, § 2. 1919, 199, § 1; 350, § 82.

SECTION 118. The board of parole of the department of correction may parole inmates of the departments for defective delinquents on such conditions as it deems best, and may at any time during the parole period recall to the institution any inmate paroled.

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SECTION 119. Any person may apply at any time to the justice of the district court in whose jurisdiction a department for defective delinquents is located, for the discharge of any inmate of said department. A hearing shall thereupon be held, of which notice shall be given to the applicant and to the person in charge of the institution where the inmate is confined. If after the hearing the justice shall find that it is probable that the inmate can be allowed to be at large without serious injury to himself, or damage or injury or annoyance to others, he may order the person having custody of said inmate to parole him. Further action on the application for the inmate's discharge shall be suspended for one year from the date of his parole. If, at any time prior to the expiration of said year, the justice of the court where the application was filed shall be satisfied that the best interests of said inmate, or of the public, require the recall of the inmate from parole, he may authorize the person having custody of the inmate to so recall him. If an application is denied, a new application shall not be made within one year after the date of the order denying the previous application. If at the end of said year the justice shall find that said inmate can be allowed to be permanently at large without serious injury to himself, or damage or injury or annoyance to others, he may order the person having custody of said inmate to discharge him. If a person discharged under this section is found by any court to have committed, after his discharge, any offence against the laws of the commonwealth, said court may commit such person to a department for defective delinquents without the certificate of any physician.

Parole and discharge by court. 1911, 595, § 7.

SECTION 120. Any special justice, when holding court at the request of the justice, shall have the powers and perform the duties of the justice under sections one hundred and thirteen to one hundred and twenty-four, inclusive. In case of a vacancy in the office of justice and in the case of the illness, absence or other disability of the justice, the special justice who holds the senior commission shall, if no request has been made as aforesaid, have the powers and perform the duties of the justice under said sections.

Powers of special justices of courts in certain cases. 1911, 595, § 8.

SECTION 121. A docket for, and a record of all proceedings under sections one hundred and thirteen to one hundred and twenty-four, inclusive, and all papers in

Records of proceedings of commitments. 1911, 595, § 9.

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connection therewith, shall be kept in the manner provided in section seventy-five.

Commitments of defective delinquents, how made. 1911, 595, § 10.

SECTION 122. All commitments under sections one hundred and thirteen to one hundred and twenty-four, inclusive, shall be made under an order signed by the justice making it. Such order may be served by any person qualified to serve any process issuing out of the court in which the justice making the commitment sits or, in case of transfer, by any officer or attendant of the institution from which the transfer is being made. The officer or other person serving such order shall make return of service on an attested copy thereof.

Expenses of commitment, etc. 1911, 595, § 11.

SECTION 123. All necessary expenses attending proceedings under sections one hundred and thirteen to one hundred and twenty-four, inclusive, shall be allowed, certified, and paid in the manner provided in section seventy-four.

Time of taking effect of certain provisions. 1911, 595, § 12. 1913, 796, § 2. 1916, 241, §§ 1, 2. 1919, 199, § 1; 350, § 82.

SECTION 124. Sections one hundred and thirteen to one hundred and twenty-four, inclusive, shall take effect as to any of the departments named in section one hundred and seventeen when the same is ready for occupancy. The commissioner of correction shall notify the governor when a department is in a suitable condition to receive inmates; and the governor may then issue his proclamation establishing such department as a place for the custody of defective delinquents.

REFERENCES.

Composition of the department and of the boards of trustees of the state hospitals, together with administrative details relating thereto, Chap. 19.

Form of and necessity for notices to and statements by the department in connection with appointment, performance of certain duties, allowance of account, or discharge of guardian or conservator, Chap. 201.

Provisions relative to gift, etc., of liquor to inmates of institutions, Chap. 268, § 27.

Commitments to the state infirmary, Chap. 122, § 20.

Estimates, plans and specifications relating to new or additional buildings, or repairs thereto, at state hospitals, Chap. 29, § 7.

Expense of removal of insane criminals, Chap. 127, § 123.

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NOTES.

Sections 19, 31. Boarding out of insane persons by trustees of state hospitals, § 16.

Section 28. Provision in 1909, 504, § 18, and in 1914, 762, § 6, relative to fixing of salaries by trustees, omitted upon authority of the commissioner of mental diseases as obsolete.

Sections 60, 61. "Supreme judicial" in the original sections changed to "superior", as the supreme judicial court now very seldom has jury cases.

Section 96. Provision in 1909, 504, § 45, and in 1918, 139, § 3, relative to necessity for written approval of department to rates of support fixed by trustees, in certain cases omitted upon authority of commissioner of mental diseases as obsolete.

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ADDITIONAL LAWS, 1921.

Chapter 262.

AN ACT RELATIVE TO COMMITMENT OF PERSONS ACQUITTED BY REASON OF INSANITY.

Be it enacted, etc., as follows:

Section thirteen of chapter two hundred and seventy-eight of the General Laws is hereby amended by adding at the end thereof the following: — The court may at any time revise or revoke the order of commitment as it may deem proper, — so as to read as follows: — *Section 13.* If a person charged with crime other than murder or manslaughter is acquitted by the jury by reason of insanity, the jury shall state that fact to the court, which, if satisfied that he is insane, may, under such limitations as it deems proper, order him committed to a state hospital, except the Bridgewater state hospital; but such person, if a male, or any person coming within the provisions of section one hundred or one hundred and one of chapter one hundred and twenty-three, may be committed or removed to Bridgewater state hospital if, in the opinion of the court, he has been a criminal or is of vicious tendency; and if he has been held on a charge of felony, the expense of his support in any such hospital or in any state charitable institution to which he may be transferred shall be paid by the commonwealth. The court may at any time revise or revoke the order of commitment as it may deem proper. [*Approved April 9, 1921.*

Chapter 270.

AN ACT RELATIVE TO THE COMMITMENT AND CARE OF DEFECTIVE DELINQUENTS.

Be it enacted, etc., as follows:

SECTION 1. Chapter one hundred and twenty-three of the General Laws is hereby amended by striking out section one hundred and thirteen and inserting in place

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thereof the following: — *Section 113.* At any time prior to the final disposition of a case in which the court might commit an offender to the state prison, the reformatory for women, any jail or house of correction, the Massachusetts reformatory, the state farm, the industrial school for boys, the industrial school for girls, the Lyman school, any county training school, or to the custody of the department of public welfare, for any offence not punishable by death or imprisonment for life, a district attorney, probation officer or officer of the department of mental diseases may file in court an application for the commitment of the defendant in such a case to a department for defective delinquents established under sections one hundred and seventeen and one hundred and twenty-four. On the filing of such application the court may continue the original case from time to time to await disposition thereof. If, on a hearing thereon, it appears that the defendant, within a period of three years, has been found guilty of an offence for which he might have been committed to any institution above named or to the custody of the department of public welfare, or that he has been adjudged a juvenile delinquent, and that he is mentally defective, and is not a proper subject for the schools for the feeble-minded or for commitment as an insane person, the court may commit him to such department for defective delinquents, according to his age and sex, as hereinafter provided.

SECTION 2. Section one hundred and seventeen of said chapter one hundred and twenty-three is hereby amended by striking out, in the first line, the words "the reformatory for women,", and also by inserting after the word "may", in the second line, the word: — hereafter, — so as to read as follows: — *Section 117.* At the Massachusetts reformatory, the state farm or such other place or places as may hereafter be approved by the governor and council, there may be maintained departments to be termed departments for defective delinquents, for the custody of persons committed thereto under sections one hundred and thirteen to one hundred and sixteen, inclusive. All men and boys so committed shall be committed to the department for male defective delinquents. All women and girls so committed shall be committed to the department for female defective delinquents. All such persons committed to the department for defective

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delinquents at any institution under control of the department of correction shall be and remain in the custody of the said department until discharged as hereinafter provided. [*Approved April 12, 1921.*

Chapter 317.

AN ACT RELATIVE TO THE SUPPORT OF INMATES OF INSTITUTIONS UNDER THE SUPERVISION OF THE DEPARTMENT OF MENTAL DISEASES, AND TO REMOVALS FROM THE BRIDGEWATER STATE HOSPITAL.

Be it enacted, etc., as follows:

SECTION 1. Section sixteen of chapter one hundred and twenty-three of the General Laws is hereby amended by striking out, in the ninth line, the words "three dollars and seventy-five", and inserting in place thereof the words: — four dollars and fifty, — so as to read as follows: — *Section 16.* The department may place at board in a suitable family or in a place in this commonwealth or elsewhere any patient in an institution who is in the charge of the department and is quiet and not dangerous nor committed as a dipsomaniac or inebriate, nor addicted to the intemperate use of narcotics or stimulants. Any such patient in a state hospital may so be placed at board by the trustees thereof, and such boarder shall be deemed to be an inmate of the state hospital. The cost to the commonwealth of the board of such patients supported at the public expense shall not exceed four dollars and fifty cents a week for each patient.

SECTION 2. Section twenty of said chapter one hundred and twenty-three is hereby amended by inserting after the word "commonwealth", at the end of the twenty-first line, the words: —, except that any such person who is subject to such orders may be so removed from Bridgewater state hospital at any time when he would have been entitled to parole if he had not become insane, — so as to read as follows: — *Section 20.* The department, subject to the following section, may transfer to and from any institution any inmate thereof who, in its opinion, is a proper subject for admission to the institution to which he is to be transferred; but no such inmate shall be transferred to be detained as an insane person unless he has been duly committed as insane by a judge or court,

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and no person shall be so transferred to the Bridgewater state hospital unless he has been a criminal and vicious in his life. A record of such transfer shall be entered in the registers of the institutions to and from which he is transferred. The commitment papers, together with an abstract of his hospital case record, shall be transmitted with him to the institution to which he is transferred. The department, subject to section eighteen of chapter one hundred and twenty, may transfer persons from the Massachusetts training schools to the Hospital Cottages for Children or to the Massachusetts School for the Feeble-Minded. The department may also remove any state charge in any state hospital to any country, state or place where he belongs, and may enter into an agreement with the corresponding board or commission of any other state for the transfer of any state charge or indigent insane person from one state to the other where, after a full investigation of all the facts, he may be deemed equitably to belong; but no such person shall be removed outside this commonwealth if he is subject to the orders of a court of this commonwealth, except that any such person who is subject to such orders may be so removed from Bridgewater state hospital at any time when he would have been entitled to parole if he had not become insane. In making such transfers and removals the department, so far as practicable, shall employ nurses or attendants instead of officers of the law, and shall employ female nurses or attendants to accompany female patients.

SECTION 3. Section ninety-six of said chapter one hundred and twenty-three is hereby amended by striking out, in the third and ninth lines, the word "six", and inserting in place thereof in each instance the word: — seven, — so that the first paragraph will read as follows: — *Section 96.* The trustees of state hospitals, directly or through an authorized agent or agents, may make contracts fixing the price for the support of inmates, at a sum not less than seven dollars per week, and binding the persons making such contracts to payment thereunder. The price for the support of inmates for whose support such a contract is not made, or of inmates payments for whose support under such contracts are in default and for insane inmates of the state infirmary and of the Bridgewater state hospital, not under orders of a court, shall be determined by the department at a sum not exceeding

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seven dollars per week for each person, and may be recovered of such persons or of the husband, wife, father, mother, grandfather, grandmother, child or grandchild if of sufficient ability. A married woman shall be subject to the said liability as though sole. Such action shall be brought by the attorney-general in the name of the state treasurer. [*Approved April 26, 1921.*

Chapter 415.

AN ACT PROVIDING FOR AN INVESTIGATION BY THE DEPARTMENT OF MENTAL DISEASES AS TO THE MENTAL CONDITION OF CERTAIN PERSONS HELD FOR TRIAL.

Be it enacted, etc., as follows:

Chapter one hundred and twenty-three of the General Laws is hereby amended by inserting after section one hundred the following new section: — *Section 100A.* Whenever a person is indicted by a grand jury for a capital offense or whenever a person, who is known to have been indicted for any other offense more than once or to have been previously convicted of a felony, is indicted by a grand jury or bound over for trial in the superior court, the clerk of the court in which the indictment is returned, or the clerk of the district court or the trial justice, as the case may be, shall give notice to the department of mental diseases, and the department shall cause such person to be examined with a view to determine his mental condition and the existence of any mental disease or defect which would affect his criminal responsibility. The department shall file a report of its investigation with the clerk of the court in which the trial is to be held, and the report shall be accessible to the court, the district attorney and to the attorney for the accused, and shall be admissible as evidence of the mental condition of the accused. [*Approved May 20, 1921.*

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Chapter 441.

AN ACT PROVIDING ASSISTANCE AND RELIEF TO NEGLECTED, DANGEROUS OR UNCONTROLLED FEEBLE-MINDED PERSONS.

Be it enacted, etc., as follows:

SECTION 1. Chapter one hundred and twenty-three of the General Laws is hereby amended by inserting after section sixty-six the following new section: — *Section 66A.* If an alleged feeble-minded person is found, upon examination by a physician qualified as provided by section fifty-three, to be a proper subject for commitment, the judge of probate for the county in which such person resides or is found may upon application commit him to the custody or supervision of the department of mental diseases or to a department for defective delinquents under section one hundred and thirteen. If he is committed to the custody or supervision of the department of mental diseases, the commissioner shall thereafter have power, whenever advisable, to place him in a state school for the feeble-minded or may cause an application to be made to a judge of probate for his commitment to a department for defective delinquents, as provided in section one hundred and thirteen.

SECTION 2. Said chapter one hundred and twenty-three is hereby further amended by inserting after section eighty-nine the following new sections: — *Section 89A.* If at any time, after study and observation, the superintendent of a state school having custody of a person placed therein under section sixty-six A is of opinion that such person is not defective, or that his further detention is not required for his own or the public welfare, he shall so report to the commissioner, who may thereupon discharge such person from further care and custody; and under like circumstances the superintendent or manager of a department for defective delinquents shall so certify to the commissioner, who may thereupon recommend to the commissioner of correction that such person be discharged from such department; provided, that any parent, guardian, relative or friend of a person committed to the custody or supervision of the department of mental diseases or to a department for defective

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delinquents may at any time file a petition for a hearing in the probate court of the county in which such person resided or was found when first committed, to establish that further custody or supervision is not required for the welfare of such person or the public; and upon payment of the necessary traveling expenses by said petitioner, from the place where such person is detained to the place of hearing, and the giving of security for the payment of necessary expenses for a return to such place of detention, if a return shall be ordered, the probate court may by order require the attendance of such person at said hearing. Upon filing with the department of mental diseases or with the commissioner of correction, as the case may be, a certified copy of said order, the commissioner of mental diseases or the commissioner of correction shall authorize and direct the attendance of such person at such hearing in compliance with the terms of said order. Notice of such hearing and proceedings thereupon shall be such as are prescribed by the court. *Section 89B.* If, at said hearing, the contention of the petitioner is sustained, the probate court may order the immediate discharge of such person and file a copy of such order with the commissioner of mental diseases or the commissioner of correction, as the case may be, and such person shall thereupon be discharged accordingly. If such contention is not sustained, such person shall be remanded to the custody or supervision of the department of mental diseases or to the department for defective delinquents; provided, that the probate court may, in lieu of such immediate discharge or remand, permit such person to remain in the custody of a relative or friend who shall give security, to be approved by the court, for his safe care and custody and for his appearance in court whenever required, until discharged or remanded as herein provided. [*Approved May 25, 1921.*

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